

## TABLE OF CONTENTS

- I. Procedures for Admissions and Discharges for Competency Examinations  
WSS 971.14 (2)
- II. Procedures and Competency Standards for Admissions and Discharges for Persons Unable to Stand Trial  
WSS 971.14(5)
- III. Procedures for Admissions/Conditional Release and Discharges for Persons Committed under WSS 971.17
  - Commitment
  - SME
  - PDI
  - Petition for Conditional Release
  - High Profile Case Reporting
  - Special Bulletin Notification
  - Court Letter Guidelines
  - Conditional Release Hearing
  - Conditional Release Plan
  - Final Plan Submitted to Court
  - Maximum Release
  - Victim Notification
- IV. Procedures for Returning 971.17 and Ch. 980 Community Releases to the Institutes Pending Revocation of a Conditional or Supervised Release
- V. Procedure for conversion of 971.17 Commitments to Civil Commitments
- VI. Procedure for Sex Offender Registration and Community Notification - WSS 301.34
- VII. Procedure for Aftercare Planning for Patients Committed under Ch. 51 or Ch. 55 in Forensics
- VIII. Chapter 51 Civil Commitment Court Process
- IX. Procedures for Admissions and Discharges for Persons Placed under Ch. 55-Protective Placement
- X. Case Preparation Procedure for Special Review Board Appearances - CH. 975
- XI. Procedures for Supervised Release Aftercare Planning-Ch. 980
  - Re-exam
  - Petition for Supervised Release
  - Supervised Release Process

- Supervised Release Community Supervision

## XII. Further Reference Information

- I. DHFS/DOC Field Manual
- II. Chapter HFS 98 Field Supervision of Clients
- III. AD-04-00 Communication of Chapter 980 Evaluations, Court Releases and Transport Arrangements; AD-02-2000 High Profile Case Reporting
- IV. AA's/AAA's and Licensing Chiefs Directory
  - A. Sample Memo to Regional AA
  - B. Sample Memo to Regional Licensing Chief
- V. Regional Provider Directory
- VI. Regional Provider Map

## **Procedures for Admissions and Discharges for Competency Examinations**

### **WSS 971.14 (2)**

- I. Statutory Authority:      **ss.971.14 (2), 971.14 (3)** Orders from court for a 15 day inpatient examination and report requirements.  
Vanderbeke vs. Endicott, Wisconsin State Court of Appeals
  
- II. Purpose:                Persons may be ordered by circuit court to undergo an inpatient 15 day examination to be completed by the Department of Health and Family Services (DHFS) when question regarding competency to proceed is raised at any time during trial proceedings, for both misdemeanor and felony charges as well as for revocation proceedings. DHFS does not have a procedure to complete outpatient examinations. These may be done at the court's discretion and action and at the county's expense.
  
- III. Procedures for Admission:
  - A. The order is to the Department of Health and Family Services (DHFS). The Department (the Institution's designee, i.e., the Forensic Director of the Institutes) in collaboration with the DCTF designee shall decide placement at either Institute, Mendota or Winnebago Mental Health Institute.
  - B. At the time that the person is ordered for the competency examination, the admissions office/or other designee of either Institute receives a call from either the clerk of courts or from the transport officer of the county jail informing that there is a subject for examination.
  - C. Arrangements are made for transport to the appropriate Institute depending on security level (max to **MMHI**), gender (females to **WMHI**), bed availability and proximity to the Institute.
  - D. The 15 day examination period commences upon arrival at the Institute including weekends and holidays.
  - E. The institute staff reviews the court order to determine if a date has been set for the competency hearing.
  - F. The evaluator (psychiatrist/licensed psychologist) completes the examination with the treatment team, composes a letter to the presiding court and mails it prior the end

of the 15 day examination period or prior to the court date listed on the accompanying order.

- G. The requirements for the court report are outlined in s 971.14 (3). It shall include the following:
    - (a) A description of the nature of the examination and identification of the persons interviewed, the specific records reviewed and any tests administered to the defendant.
    - (b) The clinical findings of the examiner.
    - (c) The examiners opinion regarding the defendant's present mental capacity to understand the proceedings and assist in his or her defense.
    - (d) If the examiner reports that the defendant lacks competency, the examiner's opinion regarding the likelihood that the defendant, if provided treatment, may be restored to competency.
  - H. In the case of a finding of **not** competent to proceed, if sufficient information is available to the examiner to reach an opinion regarding the need for medication or treatment, the examiner may include a petition for an order to treat with the letter to court.
- IV. Treatment - Treatment may be offered on a voluntary basis during the examination period. Involuntary treatment is given only in emergencies when imminent dangerousness is present.
- V. Extension of Stay:
- A. Inpatient examinations shall be completed and the report filed within 15 days after arrival at the institution. If, for good cause, the facility or examiner appointed by the court cannot complete the examination within this period, the examiner may request an extension by telephone contact with the judge's clerk. The court may allow one 15 day extension of the examination.

VI. Procedures for Discharge:

- A. When the examination has been completed by the Institute,
  - **WMHI**--the social worker assigned to the case notifies the transport officer of the county jail for pick up.
  - **MMHI**--the Admissions office notifies the transport officer of the county jail for pick up.
- B. The patient cannot be returned to the Institute unless another valid order is issued by the court.
- C. The social worker and/or examiner communicates regularly with representatives of the court to ensure that the objectives for the competency examination are being met.

## Procedures for Admissions and Discharges for Persons Unable to Stand Trial WSS 971.14 (5)

- I. Statutory Authority: s. 971.14(5)  
ss.971.14(3) and 971.16 (3) “Orders to Treat “
- II. Purpose: Following a finding of Unable (or Not Competent) to Stand Trial, the court may order the defendant to be treated to gain competency to stand trial. The standards of competency require that the Examiner:
- a) Assess the accused awareness of his possible legal defenses and how consistent these are with the reality of his particular circumstances.
  - b) An assessment of the appropriateness of the current motor and verbal behavior of the defendant and the degree to which this behavior would disrupt the conduct of a trial. Inappropriate or disruptive behavior must arise from a substantial degree of mental illness or mental retardation.
  - c) Assess the interpersonal capacity of the accused to relate to the average attorney. Involved are the ability to trust and to communicate relevantly.
  - d) Assessment of the degree to which the accused can understand, participate, and cooperate with his counsel in planning a strategy for the defense which is consistent with the reality of his circumstances.
  - e) Assess that the accused is able to identify the roles of the actors in court (defense council, prosecuting attorney, judge, jury, defendant, witnesses).
- III. Procedures for Admission:
- A. The order is to the Department of Health and Family Services (DHFS) and the Department shall decide placement at either Institute; Mendota Mental Health Institute (**MMHI**) or Winnebago Mental Health Institute (**WMHI**).
  - B. The County Sheriff's Department by order of the court is responsible for transport to the Institute.
  - C. The transport officer **must call ahead** to confirm acceptance by either WMHI or MMHI. That call is made to the Admissions office so that an assessment of the medical status of the patient can be made by the Admissions office personnel (in

consultation with the forensic director) of the respective Institute to determine **when** the person may be transported. At times it may be necessary to order special supplies or to prepare an isolation area. The assessment of the security level (maximum security level admitted to MMHI), gender (women admitted to WMHI), bed availability and proximity to the Institute will also serve to decide placement.

- D. The Institute is informed whether or not the court has granted an order to treat with medication. If no such order is present, the treating physician must petition the court at a later date if such an order is needed.

#### IV. Treatment to Competency:

- A. The examiner must provide a written report on status as required by the court at 3 months after commitment, 6 months, 9 months after commitment, and 30 days prior to expiration of commitment, unless competency is reached earlier at which time a letter should be written.
- B. The written report should include information on the status of competency such as: "the patient has become competent"; "the patient remains incompetent but may regain within the commitment period"; or that "the attainment of competency is not likely during the period of commitment. Any report indicating such a lack of sufficient progress shall include the examiner's opinion regarding whether the defendant is mentally ill, alcoholic, drug dependent, developmentally disabled or infirm because of aging or other like incapacities."
- C. The social worker or institution's designee should keep appropriate community agencies (51.42 representative, probation and parole, etc.) apprised of the status of the patient on an ongoing basis.

#### V. Procedures for Discharge:

The Institute Registrar will compute the maximum release (MR) date.

The period of time for which a patient can remain hospitalized may not exceed 12 months, or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less. Days spent in commitment under this paragraph are considered days spent in custody under s. 973.155.

**A. If the patient is determined by the court to be competent:**

1. The patient may not be returned to the Institute under 971.14 (5). Should readmission be necessary, it must be accomplished through the approval of the 51.42 Board under s51.37(5), transfer from jail.
2. If competency of the individual again becomes questioned relating to the same crime (same case number), admission for s971.14 (5) treatment is allowed for a period not to exceed 18 months, less any days spent in previous s971.14 (5) commitment, or 12 months, whichever is less.

**B. If the patient is determined by the court to be not competent, not likely to regain:**

1. Pursuant to 971.14 (6), dismissal and conversion, the treating physician and treatment team must make a determination whether a Chapter 51 (Civil Commitment), a Chapter 55 (Protective Placement), or other supportive measures are appropriate to pursue. If so, the institutions will collaborate with the mental health representatives of the county of residence and the probation/parole agent when appropriate to plan for continuous care and treatment.
2. If the individual requires further hospitalization and the charges are vacated, a Chapter 51 commitment may be pursued, provided the county 51.42 Board designee authorizes pursuit of a Civil Commitment.

In this case, the attending psychiatrist must request, in writing to the Director of the Institute, that a 72-hour detention under Chapter 51 be requested (this is commonly known as a Director's Hold).

The Director's Hold request is made to the Corporation Counselor in the county which the person presently resides (Winnebago County or Dane County). The probable cause hearing pursuant to Chapter 51 is held by the Corporation Counselor.

At this point, in the civil commitment process, the 51.42 Board in the county of residence must proceed with placement options for 14 day detention and commitment. Specific details regarding the civil commitment process pursuant to Chapter 51 are outlined in that section of the manual.

3. Case law give the District Attorney discretion to reopen the case should the patient later become competent.



## **Procedures for Admissions/Conditional Release and Discharges for Persons Committed under WSS 971.17**

### **I. Statutory Authority:**

**WSS 971**

### **II. Purpose:**

Procedures related to a finding of Not Guilty by Reason of Mental Disease or Defect

### **III: PROCEDURES FOR COMMITMENT**

#### **A. Criminal charges are filed**

#### **B. Competency to Proceed**

At any point in the legal proceeding, either the District Attorney or Defense Counsel may raise the issue of the defendant's competency to proceed. Please refer to the competency section [**WSS 971.14(2) and 971.14(5)**] of this manual for more information.

#### **C. Defendant is found Competent to proceed**

#### **D. Entering a plea of Not Guilty by Reason of Mental Disease or Defect**

This is commonly called not guilty by insanity (NGI).

1. The defendant is examined by two independent examiners appointed by the court to determine the defendant's mental status at the time of the crime and whether the defendant shall be held criminally responsible for their behavior pursuant to **s. 971.16** stats.
2. If the defendant is found not criminally responsible, the court commits the defendant to the Department of Health and Family Services (DHFS) for a specified period of time not exceeding two-thirds of the maximum term of imprisonment that could be imposed under **WSS 973.15(2)(a)** against an offender convicted of the same crime or crimes. Exception: First degree murder is a commitment for LIFE.

#### **E. Conditional release or institutional care is determined**

At this point, the court has discretion in regard to placement. The order of commitment to the DHFS shall specify either institutional care or conditional release. If the court lacks sufficient information to make the determination required, it may adjourn the hearing and order the DHFS to conduct a predispositional investigation (PDI) or a supplemental mental exam (SME) or

both, to assist the court in reaching a decision regarding placement. Please refer to the [PDI and SME section \[WSS 971.17\(2\)\(a\)\]](#) of this manual for information.

**F. Inpatient care is ordered**

The defendant shall be sent to either Mendota Mental Health Institute (**MMHI**) or Winnebago Mental Health Institute (**WMHI**) for inpatient treatment. The defendant may petition the court every six months for conditional release. Please refer to the petitioning process [\[WSS 971.17\(4\)\]](#) of this manual for more information.

**1. Procedures for admission to MMHI or WMHI**

- a.** The court shall complete the order for commitment to the DHFS. The DHFS shall decide placement at either Institute.
- b.** The clerk of courts or transport officer of the county jail calls the admissions office of either institute to inform them that there is an order for commitment.
- c.** Arrangements are made for transport to the appropriate Institute. Placement decisions are based on security level, gender, bed availability and proximity to the Institute. All persons requiring maximum security are placed at MMHI and all females are placed at WMHI.

**G. Conditional Release is ordered**

When the defendant is ordered conditionally released, the court also orders the DHFS and the 51.42 Board of the county of residence to develop a plan to be submitted to the court for approval. If the person is conditionally released immediately following the initial commitment, the plan must be submitted within 21 days. If the person is conditionally released from one of the state institutes following inpatient care, the plan must be submitted within 60 days. Please refer to the conditional [release plan \[971.17\(4\)\(e\)\]](#) of this manual for more information.

**971.17(2)(a) PREDISPOSITION INVESTIGATION AND/OR  
SUPPLEMENTAL MENTAL EXAMINATION**

The initial court order of commitment to the Department of Health and Family Services (DHFS) shall specify either institutional care or conditional release. If the court lacks sufficient information to make that decision, it may adjourn the hearing and order the DHFS to conduct a predisposition investigation (PDI) and/or a supplemental mental examination (SME).

**I. Supplemental Mental Exam (SME)**

- A.** SME's are inpatient examinations and are conducted by staff at Mendota Mental Health Institute (MMHI), Winnebago Mental Health Institute (WMHI) or independent examiners appointed by the court. The SME shall be filed within **15 days** after it is ordered unless, for good cause, the examiner requests an extension. The court may allow one 15 day extension. These reports are to assist the court in reaching a decision and therefore, must include a recommendation for institutional care or conditional release. The examiner shall personally observe and examine the person and have access to the person's treatment records, as defined in **s. 51.30(1)(b)** and health records as provided under **146.82(2)(c)**.
- B.** If the examiner finds that the person is appropriate for conditional release, the examiner shall report on the type of treatment and services that the person may need while in the community on conditional release. Institute staff who recommend conditional release, must collaborate with the 51.42 Board of the county of residence, the Division of Community Corrections (DCC) and the Contracted Conditional Release Team to determine appropriateness of community placement and services.
- C.** The report should include the following information for the court to consider:

  - 1) **Review of present offense**
  - 2) **Criminal history**; including arrests, convictions, correctional and supervision experience
  - 3) **Personal history**; including information relevant to recommendation: AODA history, family history, relationships, sexual behavior, military experience, leisure activities, residential history, financial management, education, employment, community support, etc.
  - 4) **Psychiatric history**; including hospitalizations, compliance with treatment, family history, treatment services
  - 5) **Current mental status**
  - 6) **Diagnosis**
  - 7) **Summary and conclusions**
  - 8) **Recommendations for treatment and supervision**
  - 9) **Sources of information**

## **II. Predispositional Investigation (PDI)**

PDI's are completed by the regional contracted providers. An order for a PDI should be sent to the appropriate regional provider.

### **PDI Format:**

## **PREDISPOSITIONAL INVESTIGATION REPORT**

*Date*

### **Demographic Information:**

Name:

DOB:

Birthplace:

SS#:

Case#:

Charges:

Gender:

Ethnicity:

Address:

Phone:

Education:

Religion:

Family:

Marital Status:

Defense Attorney:

District Attorney:

Probation Agent:

Diagnosis:

Medication:

Services:

**PRESENT OFFENSE**

**PRIOR RECORD**

## **FAMILY BACKGROUND**

## **PERSONAL HISTORY**

Academic/Vocational Skills:

Military:

Marital Relationship:

Employment:

Financial Management:

Emotional Health:

Physical Health:

Chemical Usage:

Mental Ability:

Religion:

Leisure Time Activities:

Residence History:

Other Agency Involvement:

## **SUMMARY AND CONCLUSIONS**

Investigators Assessment and Conclusions:

Recommendation:

Respectfully submitted

**SOURCES OF INFORMATION (should be a separate page)**

**III. When the court orders both an SME and a PDI, the examiners may contact the court to seek permission to collaborate on one report.**

The PDI and SME are both conducted by DHFS, whether Institute staff or DCTF staff, and therefore should provide the court with the same recommendation. Both reports address the same question, whether institutional care or conditional release is appropriate.

**IV. Copies of the SME or PDI report should be distributed to the following:**

**Original:**      The Court of Commitment  
                     District Attorney  
                     Defendant's Attorney  
                     County 51.42 Board Representative  
                     Division of Community Corrections Agent  
                     DCTF Forensic Services Manager  
                     Aftercare Coordinator (if applicable)  
                     Contracted Conditional Release Team (if applicable)

## **971.17(4) PETITION FOR CONDITIONAL RELEASE**

Any person who is committed for institutional care may petition for conditional release if at least 6 months have elapsed since the initial commitment was entered, the most recent petition was denied or the most recent order for conditional release was revoked.

A person may not be prohibited from filing a petition within the time limits. A person may petition with the assistance of Institute staff, on their own or with an attorney. The Institute social worker must assist any patient who requests to petition, regardless of the staff's opinion regarding appropriateness for conditional release.

### **I. Petition for Re-Examination (DCTF-5392)**

This petition is submitted to the court if the committing offense occurred prior to January 1, 1991. Persons committed under the "old law" may petition the court for conditional release every 120 days.

### **II. Petition for Conditional Release (DCTF-5393)**

This petition is submitted to the court if the committing offense occurred after January 1, 1991. Persons committed under the current WSS 971, may petition the court for conditional release every 6 months.

### **III. Notification of Petition**

The **original petition must be submitted to the committing court** with a copy for the District Attorney and Defense Attorney. A cover letter should accompany the petition including court case number, maximum release date and the institution contact person and their phone number. Persons who must be notified or copied that a petition has been submitted include:

District Attorney  
Defendant's Attorney  
County 51.42 Board representative  
Division of Community Corrections Agent  
DCTF Forensic Services Manager  
Aftercare Coordinator (if applicable)  
Contracted Conditional Release Team  
Admissions Coordinator

### **IV. High Profile Cases**

DCTF Administrative Office must be notified of persons petitioning who meet the guidelines under **Administrative Directive (AD-02-2000)**.

#### **A. Definition**

High profile is defined as situations where there may be:

- serious threat(s) made by a patient/client (verbal, written, gestured, etc.) to a public figure, victim, staff, etc.

- a change in case plans or activities that could present a risk of elopement or re-offense, or meet with public or legal controversy
- patient/client petitions for release in cases where there has been public controversy or previous media exposure
- serious accident, injury, death to staff or patient/client
- involvement of law enforcement or emergency fire/medical staff or transport
- significant newsworthy court or legal action
- evacuation of a building
- any potential or actual media interest or attention

**B. Reporting Format and Contacts**

- See AD 02-2000

**V. Process for notification – Special Bulletin Notice (SBN)**

**A. Two-strike cases**

An initial Special Bulletin Notice (SBN) must be submitted to the Wisconsin Resource Center (WRC) for persons petitioning for conditional release who meet the criteria for two-strike cases. **Please refer to the Sex Offender Registration and Community Notification (WSS 301.45) of this manual for more information.**

**B. Institution process for SBN**

- 1) The Institute Social Worker will gather all the required information for the SBN; including the necessary demographic information to complete DCTF-5723 and DCTF-5724; the release plan, proposed rules for supervision, names and addresses of law enforcement agencies who will receive the SBN. This information should be obtained from the Department of Corrections (DOC) Division of Community Corrections (DCC) Agent.
- 2) The information should be forwarded to the designated institution staff responsible for SBNs.
- 3) All information is forwarded with an SBN photograph to the WRC.



## **971.17(4)(c) COURT LETTER GUIDELINES**

### **I. Purpose**

A court letter should be submitted from the Institute when a patient petitions for conditional release. The purpose of this letter is to provide the court with current information about the patient and to make a recommendation regarding conditional release and to assist the court in making an informed decision.

### **II. Statutory guidelines for recommendations by Institute staff**

The team shall consider the standard that the court...“shall grant the petition unless it finds by clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or herself or to others or of serious property damage if conditionally released. In making this determination, the court may consider, without limitation because of enumeration, the nature and circumstances of the crime, the person’s mental history and present mental conditions, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication”. In other words, the team should discuss the standard in relation to their recommendation for or against conditional release.

### **III. Process for submitting court letters**

#### **A. Team meeting**

The treatment team must meet to discuss their recommendation to the court regarding appropriateness for conditional release. The recommendations should consider the community resources available, matching patient needs and resources. The Institute social worker, and other institute team members should meet with the contracted service provider for the patient’s particular catchment area, and contact the Division of Community Corrections (DCC) agent to obtain information and recommendations if the team plans to recommend a conditional release. When the team makes a recommendation, the specific clinical reasoning should be clearly stated.

#### **B. Writing the letter**

The court letter is to be a product of the treatment team and must be written by a clinical team member. It **shall not** replace the court-ordered examiner’s report and should be stated so in the letter. Under **no** circumstances should more than one or conflicting letters be submitted from Institute staff, community service provider, or DCC agent to the court. In the event that there is disagreement among team members, effort should be made to resolve the conflict. The letter may reflect differing positions but should be explained to the court.

#### **C. Application of **WSS 980** and **WSS 301.45****

The court letter must reference applicable sex offender laws and processes if the petitioner meets criteria to be considered under these statutes. Please refer to the

Sexually Violent Persons Act (**WSS 980**) and Sex Offender Registration and Community Notification (**WSS 301.34**) sections of this manual for more information.

**D. Submitting the letter**

The court letter must be submitted within **30 days** of petitioning. If there are any significant events from the date of the letter until the hearing, an update should be submitted to the court. The **original** letter should be sent to the committing court and a copy of the court letter should be sent to the following:

District Attorney  
Defendant's Attorney  
Division of Community Corrections Agent  
County 51.42 Board  
DCTF Forensic Services Manager  
Contracted Conditional Release Team  
Admissions/Registrar  
Aftercare Coordinator (if applicable)  
Patient  
Medical Record

## **971.17(4)(d) CONDITIONAL RELEASE HEARING**

The court, without a jury, shall hear the petition within 30 days after the court-appointed examiner has filed their report with the court, unless the petitioner waves this time limit.

### **I. Pre-hearing:**

#### **A. Court appointed exam**

The court shall appoint one or more independent examiners within **20 days** after receipt of the petition. The examiner shall examine the person and furnish a written report within 30 days of appointment. If the examiner believes that the person is appropriate for conditional release, they shall report on the type of treatment and services that the person may need while in the community on conditional release. Examiners shall not be employees of the DHFS.

#### **B. Status**

There may be several “status” hearings prior to the final conditional release hearing. These may include hearings to appoint the examiner, to hear the examiner’s report, to schedule the actual hearing. It is important to know the purpose of any scheduled hearing. The court clerk or D.A. may be able to provide this information. Patients are not required to attend status hearings.

#### **C. Transport**

An “Order to Produce” or “Order to Transport” must be received by the Institute in order for the patient to be returned to court. Most often this order is submitted by the District Attorney’s (D.A.) office and the Sheriff’s Department provides the transportation.

### **II. Hearing**

#### **A. Testimony**

Treatment team staff may be requested to testify. Staff are not required to do so without a subpoena. Testimony should be consistent with the court letter information. Staff must only testify within the standards of their professional discipline. The court may establish those that testify as expert witnesses, be prepared to discuss your credentials and experience. Staff may request to testify by phone.

### **III. Post-hearing:**

#### **A. Obtain the court order**

There may be a substantial delay in receiving a court order regarding the decision for conditional release. The Institute social worker or admissions coordinator should contact the court clerk or D.A. to obtain the disposition information and to request a copy of the court order. It is important to obtain the order in a timely manner, as the time to develop a plan is limited to **60 days**.

## **971.17(4)(e) THE CONDITIONAL RELEASE PLAN**

If the patient has been granted a conditional release, the plan must be presented to the court for its approval within in **60 days**. The Department of Health and Family Services (DHFS); including Mendota Mental Health Institute (**MMHI**) or Winnebago Mental Health Institute (**WMHI**), the Division of Community Corrections (DCC) Agent and the contracted conditional release provider (in coordination with the county of residence/placement 51.42 Board) shall prepare the plan. By statute, the plan must address the provision for supervision, medication, community support services, residential services, vocational services, and AODA treatment.

### **I. Process for Conditional Release Plan**

There are a number of steps involved in finalizing a conditional release plan.

- A. NOTIFICATION:** Institute staff shall notify the contracted conditional release provider and the DCC Agent of the conditional release status. The contracted conditional release provider must be notified immediately and the established process for developing a conditional release plan with those agencies should be followed.
- B. COLLABORATION:** If no recommendations were made prior to the client's hearing, institute social worker/staff and contract provider should convene a meeting with the DCC agent to identify appropriate referral agencies and plan development. Although the process is established to be a collaborative effort, the final plan presented to the court must be submitted by the contracted conditional release provider.
- C. REFERRAL:** Institute staff shall remain in contact with the contracted conditional release provider to obtain information about available services and possible referral sources. Staff should explain supervision and contracting to the possible referral sources, obtain signed releases from the patient and submit referral information to the agencies and establish a response time, explaining the time limit for confirming services. It is good practice to have the referral agency for residence and case management meet with the patient prior to acceptance, at the Institute or at the community agency.
- D. CONFIRMATION AND APPROVAL:** The contracted conditional release provider **must** confirm and approve all aspects of the plan. The DHFS has established a contract with the DOC to provide supervision for conditional released clients and have ultimate responsibility for supervision, therefore, must be aware of and have had input into all aspects of the plan.
- E. COUNTY OF RESIDENCE:** Referrals for out-of-county placement or services **must not** be made unless all county of residence services have been exhausted and approval has been obtained from the Forensic Services Specialists in DCTF-

Administrative Office. In the event of an out-of-county placement, the Agent must transfer supervision and the new Agent's supervisor **must** accept the case. If the person is being placed in a county other than the county of residence, the following language must be in the letter sent to the court with copies to both the sending and receiving county departments:

As (client name) is a (county) resident, it is acknowledged that (county) will be responsible for coordinating any medical services that may be required by (client name), unless (client name) is able to pay for services. It is also to be noted that as (client name) progresses to a less-restrictive environment, the transition will be made back to (county), as that is her/his county of residence

- F. CBRF NOTIFICATION:** When placing a client in a licensed Community Based Residential Facility (CBRF), the Division of Community Services regional office of the county of placement must be notified. Specifically, the Licensing Chief and Area Administrator of that region are to be notified.
- G. FUNDING:** Funding for conditional release services is provided by the DHFS conditional release program, through contracts with established contract providers. Funding for the services established in a conditional release plan **must** be approved by those agencies representing DHFS. Services required as court ordered conditions of release and established by statute are typically covered. Case management services may be billed. Services outside this caveat are not covered, including necessary medical services (i.e. blood pressure and diabetes medications, dental services, etc.) unless they are specifically related to conditional release services (i.e. blood draws for Clozoral, lithium). Clients must contribute to their cost of services, according to their ability to pay. Therefore, income from work or entitlements will be used to offset costs. Applications for entitlements (i.e. SSI, SSDI, VA benefits) **must** be submitted **30 days** prior to release. Often, it takes 30-90 days for processing the applications.
- H. EXTENSION:** If an extension is necessary in order to establish a conditional release plan, a request must be submitted to the court **7-14 days** prior to the 60 day deadline. Extension requests must include the following:
1. Reason for the extension, explaining the delay (i.e. unable to confirm acceptance from CBRF, difficulty in placing due to history of arson).
  2. The established plan to date, including referrals and rejections.
  3. Inform the court of the plans that will be carried out during the extension period (i.e. referral to other CBRFs).
  4. How long the extension will be needed (30-60 days).
  5. Indicate that the Institute, patient and 51.42 representative are in agreement with the extension request.

## **I. FINAL PLAN SUBMITTED TO COURT:**

### **A. Confirmation**

The final plan should be submitted to the court only after **all** aspects of the plan have been confirmed including the following:

1. All providers have agreed to provide services and have established an admission date.
2. The budget for services has been approved.
3. Sex offender registration (SORP) and Special Bulletin Notification (SBN) has been completed, if applicable.
4. If the patient has not agreed to cooperate with the plan and rules of supervision, note this in the plan letter and proceed with revocation.

### **B. Submitting the plan**

The plan submitted to the court should be specific about services and conditions. Include the following when outlining the plan:

1. Placement name, address, phone # and contact person.
2. Date of discharge from Institute, admission to community residence.
3. Case manager, agency, name and phone #.
4. Medications: who will monitor them and how, psychiatrist name and affiliation, how they will be dispensed (i.e. pharmacy, mail, CBRF)
5. Agencies and services' location and contact person for; CSP, day programs, vocational services, AODA treatment, etc.
6. Division of Community Corrections Agent including; phone #, plan for supervision (i.e. high risk, EMP), standard and special rules to be signed.

### **C. Distribution**

The **original** plan should be submitted to the court. Copies of the plan should be sent to the following:

District Attorney  
Defense Attorney  
51.42 Board Representative  
Division of Community Corrections Agent  
DCTF Forensic Services Manager  
Contracted Conditional Release Team  
Aftercare Coordinator (if applicable)  
Patient  
Medical Record  
Service Providers

- D. DISCHARGE ORDER:** When the plan is submitted/approved and a discharge date is established, a conditional release order is necessary prior

to discharge. You may attach the standard form (DCTF-5228A) to the proposed plan and request the court to return a signed copy. This is the most expedient way to obtain a conditional release order and approval of the plan.

- E. COMMUNITY PLACEMENT:** The following arrangements should be made at or prior to placement:
- 1.** Establish initial appointments for services (i.e. psychiatrist, AODA intake).
  - 2.** Notify the Agent of the discharge/admission plan and make arrangements for the patient to meet with the Agent to review and sign all rules, prior to discharge or at the time of placement.
  - 3.** Transportation and property arrangements.
  - 4.** The DCC agent shall arrange registration with local law enforcement

## **971.17(6)      MAXIMUM RELEASE FROM 971.17 COMMITMENT**

### **I.      Institution Cases:**

#### **A.      Obtaining a discharge order**

When a patient is within six months of their maximum release date, the treatment team should meet to discuss the patient's needs upon discharge. The team should consider whether the patient needs services under **Chapter 51** or **55**. If the patient is assessed to be unable to care for herself or himself, or is dangerous to self or others, the process for civil commitment should be initiated by contacting the 51.42 board of the county of residence. A court letter must be sent a **minimum of 60 days** prior to the expiration of the commitment to the committing court. This letter is to provide information to the court and to request a signed Order of Discharge Upon Expiration of Commitment (DCTF-5177).

The court letter should include the following:

- 1.** Court case number
- 2.** Brief legal history; including date of original commitment, offense(s), maximum release date
- 3.** Outline of the recommendations in regard to pursuing a commitment under Chapter 51 or 55. Include any reasons for pursuing or not pursuing such a commitment.
- 4.** Outline of the patient's aftercare plans including any arrangements or referrals made for residence, community treatment, appointments, transportation and persons or agencies providing support or services.
- 5.** Statement regarding an attached discharge order (DCTF-5177) and instructions for signing. This may be filled out for the court's convenience.
- 6.** Distribute the **original** to the court and send copies to the following:
  - District Attorney
  - Corporation Counsel (if 51/55 is being pursued)
  - County 51.42 Board representative
  - Division of Community Corrections Agent
  - Aftercare Coordinator (if applicable)
  - Admissions Coordinator
  - DCTF Forensic Services Managers

It is the opinion of the Office of Legal Counsel that persons committed under the "new" law, may **not** be discharged from the Institute **without** a signed discharge order. Exceptions may be made only with the approval of the Office of Legal Counsel. In the event that a judge refuses to sign a discharge order, please contact the DCTF Administrative Office to request assistance from the Office of Legal Counsel.

### **II.      Conditional Release Cases:**

#### **A.      Obtain a discharge order**

Sixty days prior to the maximum release date, the supervising DCC agent must submit DCTF 5180 to the court for a signature. The Agent sends copies to the following:

Contracted Conditional Release Team



DCTF Administration Office (DCTF will close their file)

DOC Central Records (a termination # is issued)

The Agent must send the closed file to DCTF Administrative Office who will distribute it to one of the mental health institutes for storage.

## **VICTIM NOTIFICATION**

### **Wisconsin Statute Section 971.17**

Once the Judge has determined that institutional placement is appropriate, the victim must submit a notification card to the DCTF Forensic Services Managers in Central Office in order to receive notification. There are three instances in which the victim receives notification.

**A. Leave from Mental Health Institution**

No less than fourteen (14) calendar days prior to a leave longer than 24 hours from the mental health institution, the DCTF Forensic Services Managers in the Administrative Office must be notified. Written notification is sent to the victim/next of kin at least seven (7) calendar days prior to the leave. (See appendix for sample letter).

**B. Conditional Release**

Notification of conditional release is the responsibility of the District Attorney.

**C. Termination or Expiration of Commitment**

Individuals are released from the state mental health institute if their commitment is terminated by the court or if they have completed their court ordered maximum commitment and are granted release by the court. The DCTF Forensic Services Managers in the Administrative Office notify the victim by letter at least seven (7) calendar days prior to the release. A copy of the signed discharge order must be submitted to the DCTF Forensic Services Managers in the Administrative Office no less than fourteen (14) calendar days prior to release.

# **PROCEDURES FOR RETURNING 971.17 AND 980 COMMUNITY RELEASES TO THE INSTITUTES PENDING REVOCATION OF A CONDITIONAL OR SUPERVISED RELEASE**

## **I. Statutory Authority:**

WSS 971.17(3)(e)

WSS 51.15(2)

WSS 51.37(3)

WSS 980

## **II. Purpose**

A person committed to the Department of Health and Family Services under WSS 980 or 971.17(3) and having been released to community supervision by the court may be placed in custody in a jail, hospital, center, or facility specified by WSS 51.15(2) for up to thirty days pending revocation of the conditional/supervised release, or pending development of alternatives to revocation if the supervisee has:

1. violated the conditions of release
2. violated the rules of supervision
3. shown that his/her safety or the safety of others requires such action.

## **III. Procedures**

- A. The supervising agent determines that a violation of court ordered conditions, or the rules of supervision has occurred; or the supervising agent is significantly concerned for the safety of the supervisee and/or the safety of others such that he/she must be removed from the community.
- B. After consultation with his/her supervisor, the supervising agent issues an apprehension request (DOC-58) if necessary, (check for LOCAL DISTRIBUTION) followed by petition for Capias (DCTF-5206)/Order Granting Capias (DCTF-5207), signed by the Committing court. Once the Capias is entered in the warrant system, the agent should immediately cancel the apprehension request (DOC-58). When the supervisee is detained in the local county jail, the agent can authorize the detention using the ORDER TO DETAIN (DOC-212). If the local jail refused to accept the hold order for the NGI case, the ORDER GRANTING CAPIAS (DCTF-5207) would provide the necessary authorization to hold the supervisee.

C. Within 48 Hours of Detention:

The following must occur within 48 hours of detention (including weekends and holidays).

1. The supervising agent shall prepare a violation report and obtain corroborative information such as police reports, criminal complaints, etc. to support the alleged violations.
2. The supervising agent shall prepare and submit a Statement of Probable Cause for Detention and Petition for Revocation of Conditional Release (DCTF-5177) within 48 hours of detention to:
  - a. The committing court
  - b. The DCTF Forensics Services Specialists
  - c. The Public Defender Regional Office
  - d. The Committing County District Attorney's Office
  - e. The Contracted Conditional Release Provider
3. The supervising agent shall request that the court schedule a final revocation hearing date within 30 days of detention. The agent should be prepared to testify at the final revocation hearing.
4. The supervising agent shall document in the chronolog the date and time that notice was provided to the court.
5. The supervising agent, and/or unit supervisor shall contact the DCTF Forensic Services Specialists and the Contracted Conditional Release Provider to advise of the intent to return a supervisee to one of the institutes pending revocation of conditional or supervised release, or while additional community treatment options are investigated. The agent, or supervisor, should be prepared to discuss:
  - a. The specific alleged violations
  - b. The specific intent of the return to the institute (ie: revocation; medication adjustment; modification of conditions; development of alternate living arrangements; evaluation of dangerousness, etc.)
  - c. The supervisees current mental status and behavior (ie: psychotic; decompensating; stable; delusional; combative; resistant; hostile; cooperative, etc.)

D. The DCTF Forensic Services Specialists or the Contracted Conditional Release Provider shall immediately contact the registrar or admissions office personnel of the institutes as follows:

1. The institute from which the supervisee was most recently discharged.
2. **MMHI** if maximum security is required.
3. **WMHI** if female.
4. WRC if committed under **Ch. 980**.
5. Whichever institute (MMHI or WMHI) has a bed available, particularly in the case of direct court releases.

They shall provide the following information:

Supervising agent's (or supervisor's) name; area number and telephone number.

- E. The registrar, or admissions office personnel of the institute to which the supervisee is returning shall immediately advise the institute contact person of:  
Name of returning supervisee  
Agent and/or agent's supervisor name and phone number  
The unit to which the returnee will be admitted
- F. The institute contact person shall contact the supervising agent or supervisor:
  - 1. To confirm the purpose for returning the supervisee to the institute
  - 2. To advise of the assigned S.W.'s name, phone number and address
  - 3. To request that copies of a violation report, police reports, criminal complaint, relevant chronological notes and other pertinent documents be forwarded ASAP to the assigned S.W.
  - 4. To respond to any questions the agent or supervisor may have about those procedures.
  - 5. To be informed of the final revocation hearing court date.
- G. The institute contact person shall advise the assigned institute S.W. of the supervising agent's name and phone number, the name of the returning supervisee, the intent of the admission and the final revocation hearing court date.
- H. The supervising agent shall arrange with the local sheriff's department and the institute registrar or admission personnel for transfer of the supervisee to the identified institute as soon as possible so that institute treatment staff have sufficient time to assess, evaluate and treat the returnee prior to the final revocation hearing. In order to admit the returnee to the institutes a copy of DCTF-5177 and an Order to Transport signed by the Judge, along with a copy of the original order for commitment, must accompany the returnee.
- I. The institute admission unit manager and/or social worker are advised of the return date by the institute registrar or admission personnel.
- J. Within 30 Days of Detention  
The following must occur within 30 days of detention:
  - 1. The assigned institute social worker shall contact the supervising agent and the contracted conditional release team to discuss: the nature of the violation; the impressions of the returnee's community problems and treatment needs; and the possible alternatives to revocation.
  - 2. If after discussion among the assigned institute social worker, the Forensic Services Specialist, the contracted conditional release provider and the agent, there is a decision to recommend revocation of conditional or supervised release the following will occur: The institute treatment team treats the returnee as they would any other admission to their program;

The supervising agent appears in court for the final revocation hearing and presents the Department's case for revocation.

If consensus cannot be reached, the supervising agent has the authority to make the final decision in the matter. Opinions should be shared freely among all parties, but only one recommended plan should be presented to the court.

3. Any waiver of revocation must be filed through the supervisee's attorney.

**If revocation is not being pursued or the Judge refuses to revoke continue with the steps indicated below.**

4. The assigned social worker, supervising agent, Forensic Services Specialist, contracted conditional release provider, county department representative and the supervisee shall collaborate in developing an alternate community treatment plan to be presented to the court. The alternative plan will be written by the contracted conditional release provider agency representative.
5. The collaborative team above mentioned (#4) shall evaluate the returnee for: the appropriateness for continued community release status, current community needs and risk, alternative community treatment plan recommendations that address the circumstances surrounding the reason for return, the returnee's willingness and current ability to cooperate with continued community treatment and any other pertinent information requested by the agent or the contracted conditional release team.
6. A letter addressed to the agent shall be prepared by the assigned social worker or the designated treatment staff which shall minimally contain the following information: the purpose of the letter, adjustment since return to the institute (ie: level of cooperation, behavior on the unit, etc.), current diagnosis and mental status and the factors raised in #4 above as well as recommendations and rationale for those recommendations. (This letter does NOT go to the court, only to the supervising agent).
7. The supervising agent, institute staff, county department representatives, and the contracted conditional release provider should attempt to reach a consensus on the alternative treatment plan being recommended to the court.

The supervising agent shall make the final recommendation to the Court, based on the team's consensus and corresponding alternative community treatment plan written by the contracted service provider, should be prepared to appear in court at the final revocation hearing.

8. If the alternative community treatment plan is approved by the court but the plan cannot be immediately implemented, the supervisee should be returned to the institute until all conditions of the modified conditional or

supervised release order are able to be implemented. (ie: waiting list at the residential facility, etc.). This should be part of the recommendation presented by the supervising agent.

- K. If a disagreement arises among the parties involved whether or not to revoke someone on conditional or supervised release, the supervising agent has the authority on behalf of the Department of Health and Family Services to make the final decision and will provide the court with his/her recommendation.

## **Procedure for Conversion of 971.17 Commitments to Civil Commitments**

### **I. Purpose:**

The Institutes need to involve 51.42 Boards in all planning for petitions for civil commitments. When patients under **WSS 971.17** reach their maximum discharge date and are converted to **WSS Chapter 51**, their county of residence is designated as responsible for providing appropriate treatment, including the cost for said treatment. As our customers, they should be included in the process at the time we begin thinking about this as an option.

### **II. Procedure:**

At least 3 months prior to the anticipated maximum release date (1 year for Milwaukee County) the unit social worker will notify by phone and/or mail, the 51.42 Board contact of the recommendation for a civil commitment. The social worker will invite all relevant parties from the community to a staffing to discuss the issue further. If a staffing is not possible due to distance, the plan should be for a conference call to start discussions with the county. During the staffing or conference call, it will be decided who will initiate the petition, aftercare ideas will be discussed and a plan established for how to proceed.

The Institute social worker and the county contact will remain in communication throughout the process to assure timely completion of necessary paperwork, filing of papers with the court and plans for provision of testimony.

As the hearing approaches, planning should include discussion of where the patient will reside after the final commitment hearing. A decision must be made as to whether more time is required at the Institute or whether the patient will go directly to a placement in the community.

**A contingency plan for aftercare arrangements that meet the needs of the patient must be developed in the event a commitment is not secured. While the 51.42 Board is not legally responsible in the event a commitment under **WSS 51** is not secured, they need to be asked for assistance in the pursuit of appropriate resources for the patient. The best that can be hoped for in this situation is the cooperation of the patient, since planning under these circumstances is strictly voluntary on his/her part.**



## **WSS 301.45 PROCEDURE FOR SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION**

### **I. PURPOSE**

Effective June 1, 1997 the Department of Health and Family Services (DHFS) became responsible for coordinating efforts with the Department of Corrections (DOC) to comply with the requirements of **WSS 301.45**, Sex Offender Registration and Community Notification.

Mendota Mental Health Institution (**MMHI**), Winnebago Mental Health Institution (**WMHI**), and Wisconsin Resource Center (WRC) designated staff will identify upon admission those persons who meet sex offender registration criteria, and those persons requiring Special Bulletin Notification, and provide notice and instruction to those patients of their requirements and responsibilities under WSS 301.45. All patients identified as sex offenders will be registered with the Sex Offender Registration Program (SORP) upon discharge from inpatient care. All patients meeting criteria for Special Bulletin Notification (SBN) will have an SBN generated and disseminated prior to institution discharge.

### **II. DEFINITIONS**

- A. Sex Offender Registration Program (SORP):** WSS 301.45 establishes a sex offender registration program within the Department of Corrections. The Department of Health and Family Services has worked collaboratively with DOC to set up a system of sex offender registration for all persons committed to DHFS. SORP maintains a registration database, and follows all registrants until they are no longer required to register.
- B. Special Bulletin Notification (SBN):** This is a notification process whereby law enforcement officials, in the county and area of the patient's residence, employment or school enrollment, will receive detailed information from DOC or DHFS prior to that patient's institution release.

An SBN is generated from registration forms parts 1 and 2. It is **mandatory** for all individuals committed under **Chapter 980 (Sexually Violent Persons)** who are to be placed in the community, and for all cases where the patient has been committed or convicted of a sex offense, as defined by crimes requiring

registration, on two or more separate occasions (**2-strike cases**). It is DHFS policy to also prepare an SBN on all persons referred to the **980** process.

Offenses that do not constitute a strike include:

- juvenile adjudications do not count as strikes;
- read-ins do not count as strikes;
- convictions that have been reversed, set aside, vacated, or pardoned do not count as strikes;
- federal convictions do not count as strikes.

**C. Discretionary Registration:** The court may require a person to register with the DOC SORP if the court determines that the underlying conduct was sexually motivated, and it would be in the best interest of public protection, for any violation under Chapters **940, 944, 948; WSS 971.17; WSS 943.01 to 943.15** (Certain Crimes Against Property).

### **III. PROCEDURES FOR SEX OFFENDER REGISTRATION**

#### **A. Institution Cases Requiring Registration**

##### **1. Release with no supervision**

- a. Patients whose commitment will expire while in an institution are required to register with DOC SORP within 10 calendar days prior to their maximum release date (end of commitment).
- b. Registering the patient will be a part of the institution release process.
- c. Inform the patient of his/her requirements to register with the DOC SORP by completing the DOC-1759 Registration Form, titled, "Notice of Requirements to Register."
- d. Registration forms received at the DOC SORP must have the following data items on Part 1 of the DOC-1759 Form or they will be returned to the institution for completion.
  - Full name, including complete middle name.
  - Date of birth
  - DOC # (If referred from DOC)
  - Social Security #
  - Residence information

- e. Instruct the patient to read the “Notice of Requirements to Register.” The patient should verify the information on the form, and sign the form. It is recommended that the person registering the patient read the Notice directly to the patient.

Note: The law requires the patient/offender to sign the form indicating that they have been informed of their requirements to register. If the individual refuses to sign, note “refuses to sign,” date and initial on the signature block of the form.

- f. Distribute the completed DOC-1759 form to:
1. DOC SORP
  2. Patient file
  3. Patient
- g. Inform the patients that they are required to update any changes of residence, employment, school enrollment and use of vehicle and may do so by calling the Registration toll free number and provide the updated information.
- h. Complete Part 2 of the Registration Form (DOC-1759a) and forward the original to the DOC SORP. Indicate on the form:
- Case Type: ☒ Incarceration/Confinement
  - Type Registration ☒ Expiration Commitment
- i. Make a copy of Part 2 for the file. The patient **does not** receive a copy of this form.
- j. The DOC community-based Sex Offender Registry Specialist will be immediately notified by SORP staff of the patient’s release to the community.

## 2. Release to Supervision

- a. Upon admission, cases requiring registration will be noted, and an institution face sheet will be sent to SORP. If the patient also requires an SBN (two strike and 980 cases), this should be noted on the face sheet. The face sheet will serve to set up a file with the registry.
- b. Though registration is mandated to take place within 10 days post institution release, to provide an additional safety net, institutions will register patients as a part of the discharge process.

- c. Follow the same procedures outlined above (1(b-j)) for patients being released without supervision, with the additional step of sending the assigned parole agent a copy of the registration forms.

### **3. Registering Patient's who are in the 980 process**

- a. Persons who are in the 980 process should be registered upon admission rather than at institution discharge.
- b. Follow the registration procedures outlined above. Send a registration form to the assigned agent.
- c. Upon discharge from the institution to community, notify SORP of any changes/updates.

## **B. Direct Court Release Cases Requiring Registration**

- 1. All direct court release cases will be registered by the assigned parole agent.
- 2. DHFS staff or representatives doing Predispositional Investigations (PDI) should indicate in the PDI whether or not the person is required to register. If the investigator feels that a discretionary registration is necessary, include that recommendation to the court.
- 3. DHFS staff or representatives doing Supplemental Mental Exams follow the same instructions as PDI (given immediately preceding).

## **C. Discretionary Registration**

- 1. **Institution Cases:**  
If a 971.17 committed person does not meet the statutory requirements to register, but has exhibited behavior that leads the clinicians to believe that the patient's crime(s) and current behavior are sexually motivated, a discretionary registration can be requested of the court. This can be done by court letter.
- 2. **Direct Court Cases:**  
If determined during the Predispositional Investigation process, the investigator will make the recommendation to the court. If the determination is made while on conditional release, the Forensic Services

Specialist will work with the parole agent to recommend registration to the court.

#### **IV. PROCEDURES FOR SPECIAL BULLETIN NOTIFICATIONS**

##### **A. Identification of Patients Requiring SBN's**

1. Any person referred to the **Ch. 980** process.
2. All persons committed under Ch. 980.
3. All persons who have been convicted or found NGI of two or more registerable offenses.
4. A discretionary SBN may be required for patients with a conviction/commitment for one sex offense for which registration is required, and whom the treatment team has concluded that for community safety, an SBN is advisable.

##### **B. SBN/Supplement Production**

1. The SBN is titled Sex Offender Special Bulletin Notice (form # DCTF-5723) and contains all of the necessary information for local law enforcement. The Special Bulletin Notification Supplement (form # DCTF 5724) is completed by facility staff to assist local law enforcement with their determination of the level of notification. **Do not** complete the *Decided Level of Notification* section; this is completed by local law enforcement.

2. The Wisconsin Resource Center is the central DCTF site for coordination, production and dissemination of DHFS SBN's.

3. Each DCTF mental health institution will identify patients requiring SBN's and will gather information necessary for SBN production.

Contact WRC to find out whether or not an SBN already exists. Since April of 1998, DOC has been producing an SBN for all persons referred from DOC. These are sent to WRC where they are stored and updated prior to dissemination.

4. Information will be sent to WRC, where an SBN/Supplement will be updated/produced and stored electronically until release date is known.

### **C. SBN Dissemination**

1. Whenever possible, send the SBN/Supplement 30 days in advance of the patient's institution release.

2. There will be some cases where a patient is dismissed from the 980 preceding. Given that an SBN is prepared in advance, quickly review the SBN information/Supplement, update as necessary, and disseminate immediately. All attempts should be made to have the SBN disseminated prior to the individual's actual release.

CC:   DOC Administrator  
      DOC Regional Chief  
      DOC Public Information Officer  
      DOC Legal Council  
      DOC Secretary's Office  
      DOC Legislative Liaison  
      DOC Victim Advocate  
      DPPM Administrator  
      DOJ Victim Advocate  
      SORP  
      DHFS/DCTF Deputy Administrator  
      Institution Director  
      Institution Registrar  
      Supervising Agent

### **D. SBN/Supplement Follow-up**

1.     The facility releasing the individual who is the subject of an SBN may be asked to participate in meetings or discussions with local law enforcement and designated groups responsible for making notification level determinations.
2.     The facility releasing the individual who is the subject of an SBN may be asked to attend community notification meetings to provide general process and system information about commitment, evaluation, and treatment process.

## **Procedure For Aftercare Planning for Patients Committed under **Ch. 51** or **Ch. 55** in Forensics**

### **I. PURPOSE:**

Planning for the care of patients admitted under WSS Chapters 51 and 55 includes a different process than is customary practice for patients admitted under Forensic statutes. All civil patients by statute have to be authorized for inpatient admission by a County Human Services Board (ref. WSS 51.42). The Board is responsible for the cost of care and overseeing the type of treatment provided. As gate-keeper, the Board representative(s) has a vested interest in minimizing the length of the inpatient stay. Therefore, early and regular communication with the designated Board contact is critical and should be initiated by the relevant institution/unit social worker responsible for the case.

### **II. PROCEDURE:**

- At the time of admission the social worker responsible for the case will determine the county contact for the patient and call that individual to establish a communication link. Factors that need to be discussed include the following: what is the desired community outcome of the inpatient stay for the patient; how does the Board contact wish to be involved (frequently, staffing, reports, phone calls etc.); what information they have to share with us that will assist with treatment; aftercare plans and any other relevant information.
- At a minimum of once per month, written documentation should be sent to the 51.42 Board including treatment progress notes and a request for continued funding for the inpatient stay.
- Frequent contact should continue with the designated Board representative discussing progress to determine when the patient has reached a level of stability where the county feels they can work with the patient in the community.
- Aftercare planning is a mutual responsibility with our role including making recommendations for necessary support systems in the community, and the county setting it up.
- When the county has the plan in place, the patient is released.
- Infrequently, disputes occur regarding readiness for release. At that time a staffing may be necessary to resolve the dispute. However, ultimately if the Board says discharge the patient and there is no security reason prohibiting it, the patient should be released.
- If we have strong security concerns and cannot resolve the issue, a Director's hold can be initiated.

## **CHAPTER 51 CIVIL COMMITMENT**

Court Process as Outlined in Wisconsin Statutes

### **Physical Placement**

Petitioners (family members, friends, mental health professionals, police officers) file three party petition for an Emergency Detention, based on an individual's behavior determined to be dangerous to self or others. Individual subject to the petition is transported to the inpatient psychiatric unit.

### **Inpatient Psychiatric Unit**

The County Corporation Counsel schedules a Chapter 51 Probable Cause Hearing to take place within 72 hours of the detention. During this 72 hour period a preliminary assessment is completed by the inpatient unit.

### **Probable Cause Hearing**

Options:

- Dismiss
- Convert to **Chapter 55**
- Order of Detention (may have Order to Treat or no Order to Treat)
- Stipulate

### **Probable Cause – standard is met**

- Commitment hearing is set to take place within 14 days of initial detention (can detain for only 14 days)
- Evaluation by two court-appointed examiners

Options:

- Settlement agreement
- Dismiss
- Convert to Chapter 55
- Commitment – up to one year; under 5<sup>th</sup> Standard, no longer than 45 days in a 365-day period.



**Procedures for Admissions and Discharges  
for Persons Placed under **Chapter 55**  
Protective Placement and Guardianship**

**Chapter 55 Court Actions**

Client Resides in Community or Supervised Setting

**PHYSICIAN OR PSYCHOLOGIST EVALUATES INDIVIDUAL AND COMPLETES  
REPORT TO COURT INCLUDING STATEMENT OF INCOMPETENCY.**

- Evaluation indicating person is in need of guardian and protective services or placement and voluntary services has been tried or isn't feasible.
- Assumes individual and family are agreeable to and cooperative in participating with evaluation.
- Assumes there is a doctor willing to do evaluation, incompetency statements and testify in court if necessary.

**PRIVATE ATTORNEY OR COUNTY CORPORATION COUNSEL FILES PETITION  
ALONG WITH PHYSICIAN STATEMENT WITH PROBATE COURT**

- Assumes family member is willing to act as petitioner and hire an attorney or, if indigent county staff is available to do so.
- Assumes there is someone willing to serve as guardian.

**HEARING DATE SET AND GUARDIAN AD LITEM APPOINTED BY COURT**

- Guardian ad Litem interviews individual

**ALLEGED INCOMPETENT GIVEN OFFICIAL NOTIFICATION**

- Assumes situation is not an emergency and someone or some facility is willing/able to provide care pending final Court hearing.

**DESIGNATED COUNTY AGENCY DOES MULTI-DISCIPLINARY EVALUATION  
AND REPORT TO THE COURT WITH RECOMMENDATION FOR "LEAST  
RESTRICTIVE" PLACEMENT.**

- Notified verbally and in writing of content of petition, hearing date and right to contest the petition.

- Assumes Court date set and multi-disciplinary evaluation requested with adequate time to do evaluation and report.

## **COURT HEARING, FINDINGS AND ORDER**

## **PROTECTIVE PLACEMENT**

- Assumes long term care services/placement and funding can be found that will serve/accept individual.

## **CASE PREPARATION PROCEDURE FOR SPECIAL REVIEW BOARD APPEARANCES WSS 975.06**

Follow Schedules 1 and 2 during preparation for SRB appearance.

Determine the date the applicants' packets must be distributed to them by counting fifteen (15) calendar days from date of next scheduled SRB hearing.

Distribute the Parole Planning Scratch Sheets (Form 1), along with a cover letter (Form 2), no later than ten (10) weeks prior to the distribution of the applicants' SRB packets.

The Admissions staff completes the top portion of the Parole Planning Scratch Sheets (to the space labeled "Pre-parole Required". From that space, to the end, the Social Worker will complete by interviewing the applicant. The box titled "Notice of Parole Hearing" will always be checked "Yes". To the right of this entry is a section entitled "Pre-parole Required" which contains two boxes titled "Yes" and "No". This should always be checked "Yes" and the box "Reason for Pre-Parole" should be completed with "To determine parole plan".

These forms are to be returned to the Admissions Office within eleven calendar days. When the forms have been returned, that information will be transferred to C-11, Parole Planning Information (Form 4). These forms come in triplicate packs, but additional five- (5) copies are needed. The distribution of Form 4 is as follows:

1. The original is placed in the Institution's master file.
2. One (1) blue copy, along with a cover letter (Form 5), is sent to Central Records Unit.
3. One (1) blue copy, along with a cover letter similar to Form 5), is sent to Gail Faust at the Department of Corrections. When a Pre-Parole is requested, the blue copy, along with a cover letter, is sent to the agent's supervisor instead of Ms. Faust.
4. The five- (5) copies are placed in the applicant's SRB packet file.

Consulting Form 2, you will note that the memorandum which accompanies the Parole Planning Scratch Sheets gives the Social Workers the Institution Summaries (Form 6) due date, as well as the packet distribution date.

When the Social Service Summaries are returned, seven (7) copies need to be made and distributed as follows:

1. The original is placed in the Institution's master file.
2. One (1) copy is sent to Bobby Otis at Central Records Unit.
3. One (1) copy is sent to Gail Faust at the Department of Corrections.

4. Five (5) photocopies are placed in the applicant's SRB packet file.

**When any copies are made for the packet, except for the checklists, a copy must also go the Central Records Unit and Department of Corrections.**

Packets should be hand delivered to the Board members in Madison and sent by certified mail to those who are not. Each Board member's set of packets must be accompanied by a letter of receipt (Form 10) to be signed and dated by the person accepting -the packets for the Board member. The receipt should then be returned to the Admissions office by the Nursing Office driver for the hand carried deliveries, or by mail for those sent by certified mail.

The current Board members are:

Professor Marygold Melli  
UW Law School  
975 Bascom Mall  
Madison, WI 53706

Dr. Ralph Baker  
303 Pearl Ave., Suite C  
Oshkosh, WI 54901-4774

Jeanne Huibregtse  
Department of Corrections  
149 E. Wilson St.  
Madison, WI 53707-7925

Linda Harris  
Forensic Services manager  
Division of Care and Treatment Facilities  
Room 850  
1 W. Wilson St.  
Madison, WI 53707-7851

Send memorandums (Form 11) to the applicants, units, Forensic Clinical Director, Forensic Nursing Director, Goodland Hall Security Director, Center Security, Goodland Hall West Secretary, and the Board members, telling them which applicants will appear before the Board and which applicants will be reviewed in absentia.

Prepare one copy of the Parole Interview Record (Form 12) for each applicant who is appearing before the Board. Take these forms to the SRB meeting. The highlights of the interview will be recorded by a Board member and will not be returned because they become a part of the CRU file where the Department uses them for court cases, in replying to interested persons, etc.

Provide a legal pad and pencil for each Board member to take notes during the interview.

**Make sure that a C-7 Parole Decision (Form 13) is signed by each Board member for every applicant, whether they appeared before the Board or had their case reviewed in absentia,**

Gather the Board members, written decisions and packets following the meeting. The applicants' packets remain in their possession.

Send memorandums (Form 15) to the applicants, Social Workers and Forensic Clinical Director, informing them of the Special Review Board Decisions.

**Send my per diem memo to the business office to ensure Payment to the Boar members.**

Transfer the written decisions to the pre-signed C-7 Parole Decisions.

**C-7 Parole Decisions :**

The Parole Decisions come in triplicate packs, plus a small blue sheet, which contains just the top portion of the Parole Decision. The small blue sheet is not used for the SRB appearances, so it can be destroyed. See the example on how to type the Decisions. Distribution is as follows:

**Defers:** If the applicant received any kind of defer (Defer, Defer - 3 Months, Defer - 6 Months, etc.), photocopy five (5) copies and distribute as follows:

1. The original is placed in the Institution's master file.
2. One (1) blue copy is for Central Records Unit.
3. One (1) blue copy is for Gail Faust, Parole Commission.
4. Five (5) copies are placed in the applicant's SRB packet file.

**Grants:** If the applicant received a Grant, photocopy three (3) copies and distribute as follows:

1. The original goes to the Division of Care and Treatment Facilities. Attach a cover letter requesting return of the Parole Decision along with the Order for Discretionary Parole (DCTF-5410). Also attach the original commitment order, the computation sheet, previous revocation information, and the Special Review Board Summary.
2. One (1) blue copy is for the Gail Faust, Parole Commission.
3. One (1) blue copy is for Central Records Unit/Parole Agents.
4. One (1) photocopy is placed in the Institution's master file.
5. One (1) photocopy is placed in the applicant's SRB packet file.

6. One (1) photocopy is given to the applicant.

The Institute will receive the Order for Discretionary Parole signed by DHSS Secretary and cover memo from DCTF Administrator recommending signature.

**Grant to Criminal Code Sentence:**

Make copies same as above.

1. Original to DCTF with request for Discretionary Parole and Transfer (DCTF-5414). Attach Original Commitment Order, Computation Sheets for Commitment, Judgement of Conviction, Computation Sheets for Sentence, Previous Revocation Summary, and Special Review Board Summary.
2. One (1) blue copy is for Gail Faust, Parole Commission.
3. One (1) blue copy is for Central Records Unit/Parole Agents.
4. One (1) photocopy is placed in the Institution's master file.
5. One (1) photocopy is placed in the applicant's SRB packet file.
6. One (1) photocopy is given to the applicant.

The Institute will receive the Order for Discretionary Parole and Transfer signed by DHSS Secretary and memo from DCTF Administrator to Secretary recommending signature.

**Split Decisions:**

If two (2) Board members give the applicant a defer, and one (1) member gives a grant, list the Official Action as Defer and distribute the same as any other kind of defer. However, when typing each Board member's statement, list the decision that each member made, i.e., Defer or Grant.

If two (2) Board members give the applicant a grant and one (1) member gives a defer, leave the Official Action section blank, but type each Board member's statement as explained above. do not tear the carbons out of this set. Make two (2) photocopies. One (1) copy is placed in the institution's master file and one (1) copy is given to the applicant. Send the triplicate pack (with carbons intact) to Forensic Services Manager and note in the cover letter (Form 13) that there was a split decision. After the final decision is made by the Department, Forensic Services Manager will return the original copy of the Parole Decision to Mendota and ask them to send (1) blue carbon copy on to the applicant's agent.

The copies of the Parole Decisions are separated into two (2) sets, labeled "CRU" and "Agents", and sent with a cover letter (Form 14) to Gail Faust, at Department of Corrections.

When the original grant decisions are returned, they can be placed in the Institution's master file and the photocopy, which was previously placed in the master file, may be destroyed.

When the action the Board has taken on a case becomes known, place this information in the computer file.

At subsequent meetings, no matter what the length of defer is, the packets will only be updated, but the same procedure is followed, i.e., parole planning information sheet, institution summary, etc.

Another function the Board must perform is the interviewing of a parole or mandatory release violator following his return to the institution.

**A violator's appearance** cannot be scheduled until the DOC-88, Parole Revocation Order and warrant, have been received.

This again is an updating process for the packets, except that no parole plan request is made, and, unless there is a several month delay between the date of admission as a violator and his Board appearance, no institution summary is requested.

Essentially the packet will consist of the following (four (4) copies - one (1) copy for the applicant's packet and one (1) copy for each Board member's packet):

1. Parole Violator Review.
2. Parole Revocation Order and Warrant.
3. Recommendation for Administrative Action, DOC-44A
4. Violation Report
5. Revocation Summary
6. Parole Decision from last interview

**Grant to parole recommended:**

See previous grant instructions.

These are the file copies, but an additional copy of the Order for Parole will be needed. This additional copy will be sent to the agent along with a cover letter. When the agent receives this information, he will issue his DOC-15 Request for Release and Distribution of Funds.

When the DOC-15 form is received, the institute is authorized to officially release this person to parole status on the date specified on the form.

On the date of parole a DOC-12, Release Data form must be completed and sent to Central Records Unit. In doing this, the person is transferred to the records of the Department of Corrections.

## **SEX CRIMES LAW PROCEDURE - Schedule 1**

The following is the schedule for preparing the packets and Special Review Board material for **975.06** commitments appearing before the Board.

### **The Admissions Office will:**

1. Determine the date the packet must be given to the patient by counting fifteen (15) calendar days from the date of the SRB meeting. The **packets must** be distributed to the applicants on or before the date indicated.
2. Distribute Parole Planning Scratch Sheets (Form 1) to the Unit Social Workers, along with a cover memo (Form 2) no later than ten (10) weeks prior to the date of packet distribution. These are to be returned from the Social Workers in eleven (11) calendar days.
3. Five weeks prior to the upcoming Special Review Board meeting, send memorandums (Form 3) to the Board members advising them which applicants they will be reviewing and when their packets will arrive. Send similar memorandums to Bobby Otis, Central Records Unit, and Gail Faust, Department of Corrections, regarding which applicants will be reviewed.
5. Social Services Summaries (completed by Unit Social Workers) are due twelve (12) days prior to packet distribution date.
6. Packets are sent to the Special Review Board members at the beginning of the week prior to the meeting so that they arrive at their destination on or before the Friday of that week.

## **SEX CRIMES LAW PROCEDURE - Schedule 2**

**SRB meeting of:** \_\_\_\_\_

1. Parole Planning Scratch Sheets are to be distributed to institution Social Workers on or before: \_\_\_\_\_.  
Have material returned by: \_\_\_\_\_.
2. Send letters on: \_\_\_\_\_ to Gail Faust, Department of Corrections, Bobby Otis, Central Records Unit, and the Board members, advising them of the cases who will be reviewed at this Special Review Board meeting.
3. Social Service Summaries are to be turned in no later than: \_\_\_\_\_.



4. Packets must be prepared so they can be given to the applicants at the institution on or before: \_\_\_\_\_.
5. Send packets to the Special Review Board members no later than the week of: \_\_\_\_\_ to arrive at destination on or before Friday of that week.

### **DISCHARGE ORDER PROCEDURE FOR 975.06 PATIENTS**

#### **Commitment is expiring - Person is reaching Maximum Discharge:**

1. Send a memo to Forensic Services Manager, DCTF, at least ninety (90) days before discharge date requesting Order for Discharge Due to Expiration of commitment, DCTF-5412.
2. Attachments:
  - Original Commitment Order
  - Computation Sheets
  - Revocation History
  - Most Recent SRB Summary
  - Summary Progress Report from unit outlining most recent mental status, dangerousness and current Discharge Plan.

\*New; Units need to prepare it to obtain Discharge Order from Secretary's Office.

#### **Commitment is expiring Person will be transferred to DOC to Serve Criminal Code Sentence:**

1. Send a memo to Forensic Services Manager, DCTF, at least ninety (90) days before discharge date requesting Order for Discharge and Transfer, DCTF-541 1.
2. Attachments:
  - Original Commitment Order
  - Computation Sheets
  - Revocation History
  - Most recent SRB Summary
  - Any reasons why discharge and transfer should not occur.

#### **Distribution once either order is received:**

Original:	Institution master file
Copies:	Central Records Unit
	Department of Probation and Parole - Agent
	Parole Board Office - Gail Faust
	Special Review Board File
	Patient
	Medical Record File

# **PROCEDURES FOR SUPERVISED RELEASE AFTERCARE PLANNING**

## **– CH. 980**

### **PURPOSE:**

The purpose of this policy and procedure is to describe roles and responsibilities and procedural steps carried out by WRC, DCTF, and DOC staff in carrying out supervised release services to patients committed under **Chapter 980 of WI Stats.**

### **I. POLICY:**

DHFS is responsible for providing custody, care and treatment while these persons are inpatients and for developing and implementing supervised release plans for 980 patients who are ready for community placement as determined by the court.

The Wisconsin Resource Center has been designated the Secure Mental Health Facility where Chapter 980 patients are treated inpatient. WRC is administratively responsible for inpatient and supervised release phases of the 980 program and services. Supervised Release Specialists (SR Specialists) located at WRC under the 980-program carry out the supervised release services. The Deputy Director of the WRC supervises staff positions and the supervised release program.

DHFS by policy provides supervised release services through contracting with other statewide and local service providers. Specifically, DOC provides community supervision services through its agents under a contract between DHFS and DOC. All other community treatment and support services are provided through individual patient contracts with local treatment and support services agencies.

DHFS SR Specialists are expected to carry out their responsibilities through communication, coordination and collaboration with other direct service staff who work in the facility 980 treatment program, staff who work in contracted provider agencies and with DOC field agents. SR Specialists serve as overall case coordinators and managers who are charged with ensuring that plans and services, their components and implementation actions are developed, coordinated, and communicated among all participants having responsibility for working with the patient while on supervised release.

DCTF-AO is responsible for managing the supervised release appropriation and budget, for annually renewing and re-negotiating the supervision MOU with DOC with input from WRC, and for developing any large full service provider RFP's and contracts for community based services for these patients.

### III. DEFINITIONS:

#### A. **Supervised Release:**

An order for supervised release places an individual in the custody and control of the DHFS Supervised release Program. A person on supervised release is subject to the conditions set by the court and to the rules of the DHFS. If a violation of a condition or rule is alleged, the individual on release may be taken into custody. After a violation investigation is completed, a decision whether to proceed with revocation will be made.

#### B. **Supervised Release Specialist:**

DHFS staff person responsible for statewide coordination and monitoring of individual discharge plans and community treatment and services for persons released on supervision from commitment under **sec. 980(2)(d)**, Stats. Lead role in preparation and distribution of predisposition investigations (PDI) to the court and the preparation and distribution of Special Bulletin Notifications for all persons being released from a DCTF facility. This includes consultation with DOC staff, county staff and staff at mental health institutes. Develop contracts with local provider agencies, HSD/51 Boards and creation of alternative community services where needed and not currently available.

#### C. **Re-Exam:**

Per **980.07**, patients have the right to receive an examination of their mental condition within six (6) months after an initial commitment and again thereafter every 12 months.

#### D. **Institution Treatment Team:**

At least eight (8) multi-disciplinary personnel make up this team to assess the needs of each patient. Treatment goals are discussed and formulated into a formal case plan to be implemented. Progress is evaluated and discussed among other team members and the patient.

#### E. **Supervised Release Plan:**

Per **980.08(5)**, DHFS and the county department under **s. 51.42** shall prepare a plan if the patient has been granted supervised release. Per statute, the plan must address the provision for supervision, medication, community support services, residential services, vocational services and AODA treatment.

#### F. **Sex Offender Registration (SOR):**

DOC-1759. Prior to community release, the Social Worker shall complete this form on all releases if not already submitted. If a record exists, an update must then be provided to SORP.

#### G. **Special Bulletin Notification (SBN):**

Written notification process whereby law enforcement officials in the county and area of patient's residence, employment or school enrollment, will receive detailed information from DHFS prior to the patient's institution release.

**H. Community Treatment Team:**

The SR Specialist is the Case Manager. Members of the treatment team consist of the DCC Agent, County 51.42 Board representative and all other community service/providers.

**IV. RE-EXAM PROCESS:** Psychology staff at WRC perform re-examinations for all patients housed at WRC and those who were released on supervised release from WRC. **MMHI** psychologist staff is responsible for conducting re-exams for all patients housed at MMHI and released from this facility. The assigned psychologist conducts a thorough file review and patient interview. This report includes progress made toward treatment goals and subsequent effect on dynamic risk indicators. After submitting the report to the court, the psychologist may be called as an expert witness to testify regarding the conclusions and recommendations in their report.

If supervised release is recommended, the writer of the report should request the court to designate a county of residence. Also, the preparer of the report should notify the SR Specialist and assigned Social Worker of a supervised release recommendation.

If the re-exam is conducted on a supervised released patient, a copy of the report should be provided to the Supervised Release Specialist. The SR specialist shall then inform the DCC Agent of any recommendation for supervised release.

**V. PATIENT PETITION FOR SUPERVISED RELEASE:**

Per **980.08**, any person committed for institutional care may petition the committing court to modify its order if at least six (6) months have elapsed since the initial commitment order was entered, the most recent petition was denied or the most recent order for supervised release was revoked. A person may petition with the assistance of Institute staff, on their own or with an attorney. The Institute social worker must assist any patient who requests to petition, regardless of the staff's opinion regarding appropriateness for supervised release.

**A. Notifications of Petition:**

The original petition must be submitted to the committing court with a copy for the District Attorney and Defense Attorney. A cover letter shall accompany the petition including court case number, commitment date and the institution contact person. Persons who must be notified by DHFS or copied that a petition has been submitted include:

- District Attorney – by copy
- Defendant's Attorney – by copy
- County 51.42 Board representative
- DCTF Supervised Release Specialist
- DCTF assigned Social Worker
- Registrar's office
- DCC Agent of record

**B. Treatment Team Report:**

The treatment team shall prepare a comprehensive report outlining relative patient strengths and weaknesses, past treatment gains, and persisting treatment needs that need to be addressed concurrent with supervised release. This report will be prepared when a patient petitions for supervised release and/or when the court requests such a report. The Deputy Director will identify a WRC employee who will act, as liaison to the courts, to anticipate when patient appearances might require a Treatment Team Report. The liaison will notify, in writing, the Unit Manager heading any treatment team from which such a report is required. Consistent with existing WRC procedures, all inquiries by outside parties regarding a patient shall be referred to the liaison for disposition. Treatment team members shall not respond independently to such inquiries.

The body of the Treatment Team Report shall include:

1. identifying demographic and referral information;
2. psychosocial history (including offense history);
3. treatment involvement history;
4. therapeutic goal progress;
5. relative patient strengths;
6. relative patient challenges;
7. relapse planning needs;
8. most recent Re-exam findings relative to risk;
9. diagnostic impressions; and
10. Summary

The Unit Manager is ultimately responsible for coordinating the team efforts in the production of the Treatment Team Report, however, the unit Psychologist is responsible for the final draft of the document integrating the 10 information elements listed above. The Unit Manager, Psychologist, and Social Worker must sign the report. Upon review, the Treatment Team Director must also sign the report. Upon completion the Deputy Director, for transmission to the courts shall forward to the liaison or to an appointee the Treatment Team Report.

**C. Petition Hearing:**

Treatment team staff and DCC Agent may be requested to testify. Staff is not required to do so without a subpoena. Testimony should be consistent with the clinical treatment record information. Staff must only testify within the standards of their professional discipline. The court may establish those that testify as expert witnesses, be prepared to discuss your credentials and experience. Testimony may also be required over the telephone.

**D. Post Hearing:**

Obtaining the court order regarding the decision for supervised release may be delayed. The Institute social worker shall contact the court clerk or D.A. to obtain the disposition information and copy of the court order. Obtaining this

information in a timely manner is important as the time to develop a supervised release plan is limited to **60 days**.

Copies of the court order and decision should be distributed to the appropriate registrar's office, Supervised Release Specialist and DCC Agent.

## **VI. SUPERVISED RELEASE PROCEDURES:**

**A. Development of the SR Plan:** The DHFS Social Worker shall notify the SR Specialist, County 51.42 Board in the county of residence and the DCC Agent of the order for supervised release. Discussion should consist of aftercare recommendations and appropriate referral sources for residence, programming, medication, employment and any other services deemed necessary. All parties must be given the opportunity to approve the plan before court submission.

1. Process Steps for developing SR plan:  
The following must be accomplished prior to the submission of the final SR plan to the court.

**B. Court Order:**

Usually faxed copies of court orders arrive in the office of the Director's secretary. Copies should be distributed to the assigned Social Worker, Supervised Release Specialist and Registrar. Orders received via mail should be distributed in the same manner.

1. The Social Worker shall contact the 51.42 Board in the county of residence and the assigned DCC Agent. It is important that the Agent cooperate with the coordination and implementation of the supervised release plan. Per the contract between DHFS/DOC, the Agent is to provide supervision for the release patients. If disagreements about aspects of the plan arise, the DOC Regional Chief and Deputy Warden of the facility of release shall discuss those disagreements.

**C. Referrals for Community Placement and Other Services:**

The assigned Social Worker must forward referral information with signed releases from the patient to the DCC Agent or provider service. It is important to establish a response time, as there will be a time limit set by the court to submit the SR plan.

1. Service providers must confirm admission or rejection **in writing** of the patient prior to submitting the plan to the court. Specific, detailed reasons must be given if a patient is rejected for service or admission to a program.

D. Authorization/Funding/Assurances for Services:

1. Community services/providers must provide service confirmation or denial **in writing** prior to submitting the plan to the court. Any special provisions, costs and admission dates should be confirmed at this point.
2. SR Plan Content and Format: Per 980.06(2)(c), a SR plan should address the following needs in detail, if any:
  - A. Residential services: Provide address, contact people and nature of site (1/2 way house, TLP site, private residence etc...). Describe staffing patterns if applicable and estimated stay at site.
  - B. Supervision structure: Provide DOC Agent information and plan for supervision (i.e. EMP, high risk).
  - C. Counseling/Psychiatric Services: Location and name of treating psychiatrist. Medications, nature of compliance monitoring and how they will be dispensed.
  - D. Sex Offender Programming: Therapist name, location and structure of services to be received.
  - E. Community Support Services:
  - F. Vocational Services: Provider information. School services.
  - G. Financial Management: Describe nature of resources and applicability of SS benefits or medical assistance.
  - H. AODA treatment:
  - I. Designation of county of residence: Request the court to designate a county of residence if not previously done.
3. Internal Review/Approval: The Social Worker shall provide the SR plan to his/her supervisor and the SR Specialist for review prior to submitting the plan to the court.
  - A. Distribution of the SR plan should include:
    1. Petitioner's Attorney
    2. Respondent's Attorney
    3. County 51.42 Board Representative
    4. DCTF SR Specialist
    5. Registrar's office – release institute
    6. DOC Agent of record
4. Pre-Release Activities: The following arrangements should be completed by the Social Worker prior to actual release/community placement:
  - Secure and ensure distribution to the agent/patient copies of the court order approving and specifying conditions of supervised release.

- SR plan review with patient.
- Coordinate with DOC Agent to review and explain the rules of supervision and obtain patient signature.
- Sex Offender Registration: Original or update
- Establish all appointments for services and notify patient and DOC agent.
- Provide Temporary supply or make other arrangements for continuation of critical medications.
- Arrange the transfer of patient property.
- Schedule/coordinate patient transportation, local law enforcement registration with DOC Agent.

E. Authorization/Approval by the Court:

Only the court authorizes supervised release and the order to develop a plan. After review, the court will determine if the plan is appropriate. If changes are needed, the court prior to authorizing release will address these.

1. Designation of County of Residence: Request the court to designate a county of residence if not previously done through the PDI, SME or Supervised Release Plan.
2. Timeline: Per 980.06(2)(c), the plan shall be presented to the court within 21 days after the supervised release finding. The court can extend this timeframe and extension can be requested if needed. If special circumstances exist That require holding the patient until a specific release date, then (i.e. pharmacological treatment, community notification), the Social Worker must make this known to the court and attorneys when submitting the SR plan.
3. Roles/Responsibilities:
  - a. WRC-Supervised Release Specialist Role/Responsibilities:
    1. Conduct and Prepare PDI's
    2. Serve as 980 Court services liaison
    3. Provide technical consultation to Social Workers during SR plan development. Requests court to designate county of residence, if needed.
    4. Approve funding for SR plan services.
    5. Review SBN information submitted by the social worker. Develop and issue SBN to applicable law enforcement agencies.
    6. Initiate/Request victim notification and verify completion.
    7. Attend Community Notification Meetings as Dept. representative.
    8. Serve as case manager/coordinator for all SR cases and services.



9. Conduct/coordinate community treatment team, initial and on-going SR case staffing, case plan development, progress and annual reviews, modifications of court ordered conditions and rules of supervision.
  10. Approve funding for new/changed SR service contracts for each SR patient.
  11. Serve as primary Dept. contact/coordinator for patient returns from SR.
  12. Maintain Dept. SR release case file and records
  13. Tracks SR annual re-exams and communicates outcomes
  14. Carries out SR case closing documentation.
- b. WRC-Unit Social Worker Role/Responsibilities:
1. Development of SR plans and referrals for Services.
  2. Provide cost of service information to SRS
  3. Collects/forwards SBN information to SRS
  4. Ensures SOR, DNA tests completed
  5. Conducts Pre-Release Activities.
- c. DOC Agent Role/Responsibilities :
1. Assist DHFS in the development of the SR plan
    - Submission of referrals to service providers
    - Landlord searches if necessary
    - Recommend and seek out other services deemed necessary
  2. Assist in pre-release activities
    - Coordinate with Social Worker to review and explain the rules of supervision
    - Assist with Sex Offender Registration
    - Assist SR Specialist in coordinating law enforcement notification
      1. Victim notification
    - Assist in coordinating the transportation of the patient upon release.
    - Enroll patient in the Electronic Monitoring Program
  3. Upon release, conduct registration with law enforcement agencies
- d. County Caseworker (51.42) Role/Responsibilities:
1. Assist DHFS Social Worker in preparing the SR plan
    - If declining, notify Social Worker in writing
  2. Recommend and seek out release services

- e. SR Service Providers Responsibilities
  - 1. Confirm admission or denial of services in writing to Social Worker
    - Advise Social Worker in writing if special provisions exist regarding acceptance of patient
- f. DCTF-AO Role/Responsibilities:
  - 1. Develop and manage the SR budget
  - 2. Develop and manage statewide, single provider team SR service contracts
  - 3. Develop and re-negotiate SR Supervision MOU with DOC with input from WRC-SR program manager and specialist.

## **VII. SUPERVISED RELEASE COMMUNITY AFTERCARE /SUPERVISION**

### **A. Roles/Responsibilities:**

After release to the community, the treatment team will have responsibility to communicate with other service providers. As changes in the treatment plan are recommended, all members will discuss the issue(s) and agree to plan revisions.

#### **1. Supervised Release Specialist:**

- Coordinate community treatment staffing every six (6) months to discuss patient progress, problems and needed changes to the SR plan (treatment, EMP, employment, school, transportation, medication etc...)
- Approved funding for continued SR provider services
- Serve as primary DHFS contact for patient returns from SR.
- Maintain DHFS SR case file and related records
- Track SR annual re-exams and communicate outcome to community treatment team
- Carry out SR case closing documentation

#### **2. County Case Worker(51.52):**

- Attend release staffing when organized, if providing services to released patient
- Submit DCS-844 (Supervised Release Payment Form) to DCTF Central Office for timely payment of services.

#### **3. DOC Agent:**

A. Communicate and discuss significant changes/events in SR (violation, employment, removal of EMP, change in treatment/programming, residence, health concerns) to DHFS SRS Case Manager prior to taking action, unless emergency.

1. As a member of the community treatment team, the Agent is expected to attend staffing when organized by SRS Case Manager.
2. If custody is pursued, the Agent must complete the following forms in addition to DOC violation investigation procedures:
  - a. DCTF 5536 Statement of probable cause for detention. Submit to committing court and regional office of the State Public Defender within 48 hours of detention. Also advise D.A.
  - b. DCTF 5537 Order to transport

4. Community Service Providers:

- Provide Agent with monthly progress notes regarding patient's status
- Attend treatment staffing when organized and provides input into possible case plan changes
- Submit DCS-844 (Supervised Release Payment Form) to DCTF Central Office for timely payment of services.

B. Case Process:

1. Initial Staffing and Case Plan: If a staffing was not held prior to community release, there should be a follow-up staffing within 14 days of SR release/placement.
2. Progress Reports: To assist in consistent communication:
  - A. Service providers shall provide DOC agent progress notes on a monthly basis. Attendance, participation, patient demeanor and other concerns should be shared.
  - B. Monthly, the DOC Agent shall share sex offender programming information to other service providers (residential, counseling providers).
    1. The SR Specialist will discuss these services when consulting with the DOC Agent during staffing every other month.
3. Plan Review/Modification: At least every six (6) months, a staffing involving the community treatment team to discuss needed changes to the SR plan shall be coordinated by the SR Specialist.
  - A. Changes/revisions to the SR plan will be forwarded by the SR Specialist in writing to the committing court for review
4. Violations:
  - A. Notification: The Agent must contact the SR Specialist and forward relevant file material (i.e. DOC-5 violation report).
  - B. Custody Decisions: Detention decision, place of custody and transport.
  - C. Court Process/Orders: To be followed by the SR Specialist and DOC Agent.

- E. Disposition Process: The DOC Agent shall discuss this issue with the SR Specialist after consulting with his/her supervisor and other parties involved with providing input regarding an appropriate disposition
- F. Alternatives to Revocation Processes
- G. Documents and Distribution

5. Discharge from Commitment:

- A. Per 980.09(1)(a) a person committed under chapter 980 can be authorized by the secretary to petition the court for discharge if determined to no longer be a sexually violent person.
- B. Per 980.09(2) a person may petition the court for discharge without the secretary's approval.
- C. Per 980.10 a committed person may petition the court for discharge anytime. If the court previously reviewed the petition and determined that the request was frivolous or that the person was still a sexually violent person, then the court can deny any subsequent petitions.
- D. Re-exam 980.07: Upon annual evaluation, it may be decided by the examiner that the committed person has made sufficient progress to transfer to a less restrictive facility, to supervised release or to discharge.
  - 1. Examiner shall prepare a written report of the examination and provide a copy to the committing court and notify the SR Specialist who will notify the DCC agent.

# THE DEPARTMENT OF HEALTH AND FAMILY SERVICES



COMMUNITY SUPERVISION OF CONDITIONAL RELEASE CLIENTS  
UNDER **WSS. 971.17**  
NOT GUILTY BY REASON OF MENTAL DISEASE  
OR DEFECT (NGI)

## PROCEDURES MANUAL

FEBRUARY 22, 2000

## **Table of Contents**

The NGI Finding  
Commitment to the DHFS  
Conditional Release Criteria  
PDI/SME Reports  
Conditional Release Plans  
Agent Case Assignment Sources  
Institutional Case Assignment  
Conditional Release from an Institution  
Conditional Release- Direct Court Release  
Setting An NGI Case Up On Records  
No Supervision Fees/Court Costs/Restitution  
Funding for Conditional Release Services  
Need For Signed Releases Of Information  
Level Of Supervision  
Intrastate Transfer Of Cases  
Out Of State Travel  
Violations  
Apprehensions  
Custody's  
Revocation Hearings  
Revocation Withdrawal  
Short-term hospitalization as an ATR  
Case Termination  
Important Reminders  
DHFS Contacts  
Example of NGI Discharge Memo To Court

## THE NGI FINDING

Less than one half of one percent of all criminal pleas result in a Not Guilty By Reason of Mental Disease or Defect (NGI) commitment under Wisconsin State Statute **971.17**

The NGI finding is a two-part court process. First, the defendant must be found guilty of the committing offense. The court then orders the defendant to be examined by two independent examiners. The criteria for the NGI plea is that the defendant was not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, the defendant lacked substantial capacity either to appreciate the wrongfulness of their conduct or conform their conduct to the requirements of the law.

NGI clients are not considered to be *convicted* of the offense for which they are committed under WSS 971.17.

## COMMITMENT TO THE DHFS

Persons found NGI are committed to the Department of Health and Family Services (DHFS). The committing court determines placement. Options include Mendota Mental Health Institution (**MMHI**), Winnebago Mental Health Institution (**WMHI**) or directly back into the community (direct court release) on conditional release. Since December 1, 1991, the DHFS has contracted with the Department of Corrections (DOC), Division of Community Corrections (DCC), to provide community supervision services to persons conditionally released. **Agents function as the representatives of the DHFS.**

When a court accepts an NGI plea, the defendant is automatically committed to the DHFS. From that point on, agents have full authority to supervise, detain and/or revoke the client's conditional release. There may be a time delay in the committing court issuing the actual commitment order. Community safety concerns however, make it important that the agent begin supervising the client immediately upon the client's commitment to the DHFS. Agents should have the NGI client initially sign the Conditional Release Rules and Conditions form (DCTF-5614).

The NGI defendant may be committed to the DHFS for a specified period of time not exceeding two-thirds of the maximum term of imprisonment that could be imposed under **wss 973.15(2)(a)** against an offender convicted of the same crime or crimes. Exception: First degree murder is a commitment for LIFE. The court sets the commitment period. The termination date of the commitment can not be expended or shortened by the agent. There are no administrative early discharges for NGI commitments. The committing court may only terminate a commitment rather than reducing it.

## **CONDITIONAL RELEASE CRITERIA**

The committing court is also the releasing authority. In Wisconsin, the standard for conditional release is dangerousness, that is, the court will deny a petition for release if it "finds clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or herself or to others or of serious property damage if conditionally released". Defendants may petition the committing court for conditional release from WMHI or MMHI every six (6) months.

## **PREDISPOSITIONAL INVESTIGATION REPORTS**

The initial court order of commitment to the DHFS shall specify either institutional care or conditional release. If the court lacks sufficient information to make that decision, it may adjourn the hearing and order the DHFS to conduct a predispositional investigation (PDI) and/or a supplemental examination (SME). PDI and SME reports are similar in content to the Presentence Investigation reports done by the DOC. SME's are inpatient examinations and are conducted by staff at MMHI, WMHI or independent examiners appointed by the court. PDI reports are completed by the contracted DHFS case manager and not the agent. Agents shall however, if requested by the case manager, assist with the process by coordinating such activities as the PDI interview, or reproducing the client's criminal history from the Crime Information Bureau report, for example.

## **CONDITIONAL RELEASE PLANS**

When a petition for conditional release from WMHI or MMHI is granted by the committing court or an NGI client is released directly from the committing court to the community, a Conditional Release plan is developed. The plan is written by the institution staff or the contracted community case manager, depending on the origin of the release. The assigned agent, in collaboration with the DHFS contracted mental health provider (in coordination with the county of residence/placement 51.42 Board) reviews and provides input during the plan preparation. By statute, the plan must address the provision for supervision, medication, community services, residential services, vocational services and alcohol and other drug abuse treatment.

The court approved Conditional Release Plan, in conjunction with the standard **CONDITIONAL RELEASE RULES AND CONDITIONS - DCTF-5614**, provides the core of the agent's case plan, supervision mandates and case direction. Agents may still add case appropriate rules at any time. Any additional rules imposed by the agent should be communicated to the assigned case manager.



## **AGENT CASE ASSIGNMENT SOURCES**

### **Institutional Case Assignment**

Upon admission to MMHI or WMHI, the institute will forward the completed DCTF- 5213 (Admission to caseload - Mental Health) form, along with a copy of the commitment order, to the respective DCC regional office, which is based on the client's county of commitment.

Upon receipt of the completed DCTF-5213, the Regional office will notify the appropriate area office. The area office will then advise the Regional office within two (2) working days of the assigned agents' name and area number. The Regional office will forward this information, noted on the bottom of the DCTF-5213, to the institution registrar.

Ledgerkeepers will enter these cases onto the ledger as "Institute". While the client remains in the institution, the case is not set-up on records with DOC's Central Record Unit. Therefore, a DOC-44 document is not issued to the supervising agent.

The institution social worker will forward file material on the case to the agent. The institution social worker will also keep the agent informed of significant case changes and any petitions for conditional release that the client submits to the committing court.

### **Conditional Release from an Institution**

Institution staff should provide written notification to the assigned agent and supervisor when a client has petitioned for conditional release to the committing court. When the committing court grants a clients conditional release petition, the institution social worker will prepare the conditional release treatment plan within 60 days. The agent shall review the plan as to its appropriateness and suggest modifications, if necessary.

If possible, the agent should attend the conditional release-planning meeting held at the institution in person. If the agent is not able to attend in person, the **CONDITIONAL RELEASE RULES AND CONDITIONS (DCTF-5614)**, with any additional rules imposed by the agent, should be faxed to the institution for review during the planning meeting with the agent participating via telephone conference call.

The agent shall meet with the client at least one week prior to their release from the institution in order to review the conditional release rules.

Upon a court order for conditional release, the agent does not prepare a DOC-15.

## **Conditional Release - Direct Court Release -**

After a court accepts an NGI plea, the defendant is automatically committed to the DHFS. The court may determine that the client can be safely released directly into the community without placement at **WMHI** or **MMHI**. Usually, at the time of a direct court release, the committing court will also order the DHFS to complete a Conditional Release Plan (within 21 days) or a PDI (typically within 30 days). The actual commitment order, therefore, often takes a month or more for the court to produce.

The NGI client should report immediately to the local DCC office, directly upon leaving the court for agent assignment and reporting instructions.

Community safety concerns make it important that the agent begin supervising the client immediately. Agents have full authority to supervise, detain and/or revoke the client's conditional release. Agents should have the NGI client initially sign the Conditional Release Rules and Conditions form (DCTF-5614).

Often, the DCC becomes aware of a new NGI Direct Court Release before the DHFS. The DCC intake office and/or assigned agent should contact the DHFS Forensic Services Specialist and Conditional Release Regional Provider (see Conditional Release Regional Providers map) immediately, to ensure that necessary services and court ordered reports are followed in a timely fashion.

## **SETTING AN NGI CASE UP ON RECORDS**

It is the supervising agent's responsibility to set-up NGI cases with the DOC Central Records Unit (CRU).

Upon receipt of the ORDER OF COMMITMENT FOR CONDITIONAL RELEASE (CR-219) *or similar order*, from the committing court, the agent shall forward the order to the DOC CRU. The order must contain:

The agent's area number.

Clients date of birth.

The commitment discharge date.

The DOC-38 (Probation Questionnaire) with client identifying information is also helpful.

## **NO SUPERVISION FEES/COURT COSTS/RESTITUTION**

Because the DHFS contracts with the DOC for supervision services, NGI clients are exempt from paying supervision fees. Additionally, NGI clients do not pay court costs or restitution.

## **FUNDING FOR CONDITIONAL RELEASE SERVICES**

On April 14, 1993, the Wisconsin Supreme Court held that the DHFS was responsible for funding the conditions of release for those indigent persons who are committed as NGI and are subsequently released by the court.

The specific court case involved a conditionally released client by the name of Donald J. Rolo, a Langlade County resident. Mr. Rolo's conditions included placement at a group home or other residential facility to ensure compliance with a court order for medication. The county department refused to assume financial responsibility.

The DHFS has only limited funds to finance conditional release services. Therefore, the DHFS requires that all proposed budgets for services be reviewed to assure that the services are clinically appropriate and are necessary to implement the conditional release order of the court.

Examples of the types of services that the DHFS is authorized by statute to fund include: mental health medications, counseling, community support program services, residential placement costs - including community based residential facilities and alcohol and other drug abuse (AODA) outpatient treatment.

**Services that the conditional release program are not authorized to fund include:** any treatment related to physical health services, services for anyone other than the NGI client (such as the client's spouse or children) and any costs related to inpatient AODA treatment or inpatient psychiatric treatment - these types of inpatient services are provided for at WMHI or MMHI.

Income that conditionally released clients receive (e.g., employment, SSI, SSDI, VA benefits, etc.) must be reported and are used toward the cost of care pursuant to Wisconsin Statute 46.10.

## **NEED FOR SIGNED RELEASES OF INFORMATION**

The DHFS contracts with the DOC and the Regional Conditional Release mental health providers. As such, agents, contracted case managers and mental health providers, institute staff and DHFS Forensic Services Specialists may communicate with each other about NGI clients without the need for signed releases of confidential information.

## LEVEL OF SUPERVISION

During the initial 30 days of conditional release into the community, the agent shall supervise NGI clients at the High-Risk level. That is, one face to face contact every seven days. Home visits shall be made at least twice within the initial 30-day period.

After the initial 30 days of High-Risk supervision, the agent shall determine the next appropriate supervision level. **However, supervision level shall not be reduced below the Medium level without DHFS Forensic Services Specialist approval.**

## INTRA-STATE TRANSFER OF CASES

All requests for case transfers to another area within the state must be reviewed by the DHFS Forensic Services Specialist. This step must occur before the supervising agent proceeds per section 11.02 of the DCC Operations Manual.

## OUT OF STATE TRAVEL

NGI clients may not leave the state of Wisconsin. HFS 98.04(3)(k) states that NGI clients "May not live, work, travel or be trained or educated in another state, because persons committed to the department under **s.971.17** or **980.06**, Stats., are not covered by the interstate compact under **s. 304.13**, Stat., or by **s. 304.135**, Stats." This prohibition for out of state travel can not be waived by the agent or the committing court.

## VIOLATIONS

### Apprehensions -

When an NGI client violates the court ordered conditions of release or the standard conditional release rules and the client's whereabouts and activities are unknown, the agent may issue an Apprehension Request (DOC-58). Check NO in the extradition section of the DOC-58.

As soon as possible, the agent shall prepare the PETITION FOR CAPIAS (DCTF5206) and the ORDER GRANTING CAPIAS (DCTF-5207) and submit them to the committing court for the judges signature. The court then routes the signed Capias to the sheriffs department warrants division. The Capias serves the dual purpose of a bench warrant and authorizes a law enforcement agency to detain the client pending further orders from the committing court.

After the agent verifies (through the sheriffs department warrant division) that the Capias is active in the system, the agent shall cancel the Apprehension Request (DOC-58).

## **Custody's -**

When an NGI client is placed in custody, the agent must submit the completed STATEMENT OF PROBABLE CAUSE FOR DETENTION AND PETITION FOR REVOCATION OF CONDITIONAL RELEASE (DCTF-5177) to the committing court and the regional office of the State Public Defender responsible for handling cases in the county where the committing court is located **within 48 hours of detention, including weekends and legal holidays.**

A revocation hearing must be scheduled, by the court, **within 30 days of the date of detention**, unless the hearing or time deadline is waived by the detained person.

If a detention facility refuses to accept the Order To Detain (DOC-212), the agent shall prepare a Capias Order (DCTF-5206 and DCFT-5207) for the committing court's signature and submit it to the detention facility.

The supervising agent will determine where the client is to be detained pending the revocation hearing (as noted on the DCTF-5177). In most cases, when revocation is being pursued, transportation is arranged to the appropriate mental health institute. The agent shall contact the admissions office of **WMHI** or **MMHI** to ensure that space is available. Clients generally are returned to the institution they were conditionally released from. Female NGI clients go to WMHI. Agents should consult with the admission office if they are unsure which institution the client should be returned to. The agent prepares the ORDER TO TRANSPORT (DCTF-5205) for the committing courts signature. The court then forwards the Order to Transport to the sheriff's office to effect the transport.

## **Revocation Hearings**

When revocation is pursued, the normal DOC revocation process is not followed. The revocation hearing will be conducted by the committing court. The local District Attorney is responsible for establishing clear and convincing evidence that any rule or condition of release has been violated, or that the safety of the person or others requires that the conditional release be revoked. The agent may be called to testify as to the reasons) for the requested revocation.

It is important that the agent involve the DHFS contracted case manager in the decision making revocation process, to ensure that all appropriate alternatives to revocation are considered.

When a client is placed at WMHI or MMHI, the agent should make contact with the assigned institution social worker to share information regarding the violation, the clients conditional release adjustment, and whether the institution placement is intended for short- term hospitalization or revocation purposes. The institution social worker shall also keep the agent informed as to the client's treatment progress and conduct during the placement.

If the agent and the DHFS contracted case manager disagree as to appropriateness of a revocation, the case should be reviewed with the DHFS Forensic Services Specialist. If consensus cannot be reached, the supervising agent has the authority to make the final decision in the matter. Opinions should be shared freely among all parties, but only one recommendation should be presented to the court.

Client case files for persons revoked and re-institutionalized while on conditional release will physically remain with the assigned agent.

### **Revocation Withdrawal -**

If revocation is not pursued, the agent withdraws the petition, advises the committing court of this decision and if approved by the court, returns the client to active supervision.

### **Short-term hospitalization as an alternative to revocation (ATR) -**

During the revocation process, placement of NGI clients at **WMHI** or **MMHI**, particularly for psychiatric stabilization, can be useful. Agents should request that the committing court set the revocation hearing date as close to the statutory 30 day time limit, (from the first day of custody), as possible. If appropriate psychiatric and/or behavioral adjustments can not be accomplished within the 30-day time limit, the agent should proceed with a recommendation to the committing court that the client's conditional release be revoked.

### **CASE TERMINATION**

Conditional Release cases may only be terminated by order of the court. In addition, the DOC/CRU can not remove the client from their records without a signed discharge order from the committing court.

The agent should submit the ORDER OF DISCHARGE UPON EXPIRATION OF COMMITMENT (DCTF-5180), to the committing court at least sixty (60) dates prior to the commitment expiration date. In a cover memo (see EXAMPLE OF NGI DISCHARGE MEMO TO COURT) the agent, in consultation with the DHFS Forensic Services Specialist, shall address the appropriateness of the DHFS or the appropriate county department under s. 51.42 or 51.437, Stats., to proceed against the client under **Ch. 51** or **Ch. 55**, Stats.

Upon receiving the signed ORDER OF DISCHARGE UPON EXPIRATION OF COMMITMENT (DCTF-5180) from the committing court, the agent shall **forward copies to the DOC/CRU and the DHFS Forensic Services Specialist**. Agents then follow the normal DOC file termination process. Discharged NGI case files are forwarded to the DHFS Forensic Services Specialist for storage at the appropriate institution.

Agents can not administratively terminate an NGI commitment early. Commitment discharge dates can not be extended. Clients have the statutory ability to petition for termination of their commitment (971.17(5)) if at least six (6) months have lapsed since the person was last placed on conditional release or since the most recent petition was denied. Agents may inform clients of this statutory provision but should not encourage clients to initiate such action. **Agents shall inform the DHFS Forensic Services Specialist of any NGI client who petitions the court for an early termination of their commitment.**

## **IMPORTANT REMINDERS**

The DHFS Conditional Release Program has become a national model for community reintegration of forensic clients.

The program's reputation for effective, high quality community mental health services and low recidivism rates is due in large measure to it's treatment team approach in working with this challenging population. Agents are a valued and important members of the treatment team. Community supervision skills and the unique authority to leverage treatment plan compliance are essential to our process. Timely, open communication between team members and a thorough understanding of each members role is critical to client success and community safety. Working as a cohesive team, the DHFS Conditional Release Program will continue to set new standards in community forensic work and provide the citizens of Wisconsin with the safest, most effective method of community reintegration for this population.

## **DHFS CONTACTS**

Forensic Services Specialists

Glenn Larson (608) 266-2862 Fax: (608) 266-2579 Email:  
[LARSOGP@DHFS.STATE.WI.US](mailto:LARSOGP@DHFS.STATE.WI.US)

**Consultant for: Dane, Milwaukee and Western Regions**

Lynne Adolphson (608) 267-7705 Fax: (608) 266-2579 Email:  
[ADOLPLM@DHFS.STATE.WI.US](mailto:ADOLPLM@DHFS.STATE.WI.US)

**Consultant for: Northern, Fox and Southeastern Regions**

## **DHFS Mental Health Institution Admissions Offices**

MMHI (608) 243-2517 Fax: (608) 243-2522  
Switchboard: (608) 243-2500

WMHI (920) 236-2916 Fax: (920) 235-5385  
Switchboard: (920) 235-4910

EXAMPLE OF NGI DISCHARGE MEMO TO COURT  
(To be submitted on DOC letterhead)

January 1, 2000

Honorable \_\_\_\_\_  
\_\_\_\_\_ County Circuit Court Branch \_\_\_\_\_  
000 W. Main Street  
Anytown, WI 00000

**RE: John D. Doe**  
**Case No: 99-CF-0000**  
**Discharge from Conditional Release pursuant to WSS 971.17**

Dear Judge \_\_\_\_\_ ,

On 00-00-00, John Doe was found Not Guilty by Reason of Mental Disease or Defect for the crimes of \_\_\_\_\_ 000.00(0), \_\_\_\_\_ 000.00(0), and was committed to the Department of Health and Family Services (DHFS) for a period of \_\_\_\_\_.

In accordance with **WSS 971.17(1)**, Mr. Doe's commitment to the DHFS will (has) expire(d) on **00-00-00**. The Department of Corrections has no authority to supervise Mr. Doe beyond this date.

Pursuant to WSS 971.17(6), this matter is being returned to the committing court for discharge. The Department has reviewed the defendant's case and finds no basis (or does find a basis) to proceed to commit the defendant pursuant to Wisconsin Statute **Chapter 51** or **55**. The Department of Corrections does not (or does) recommend that the committing court take such action and recommends that the defendant be discharged from Conditional Release **effective 00-00-00**.

Attached, for the court's convenience, is form DCTF-5180 "ORDER OF DISCHARGE UPON EXPIRATION OF COMMITMENT". Further information on this defendant will be provided to the court upon request.

Sincerely,

Agent # 00000

CC: DHFS; ADA; Defense Atty.



# ADMINISTRATIVE DIRECTIVE

AD-04-00

(This replaces AD-04-00)

DATE: September 19, 2000

TO: Institute Directors  
SRSTC Director  
WRC Director  
Forensic Services Supervisors

FROM: Laura Flood  
Interim Administrator

RE: COMMUNICATION OF CHAPTER 980 EVALUATIONS, COURT RELEASE  
AND TRANSPORT ARRANGEMENTS

## I. PURPOSE

The purpose of this policy is to consolidate previous memos and formalize expectations with regard to the above DCTF practices when carrying out Department responsibilities under **Chapter 980**. Because issues are continually developing about Division practices with these detainees/committees, additional revisions may continue to occur.

## II. APPLICATION

This policy applies to specific Chapter 980 situations as follows:

Chapter 980 Evaluations and practices with regard to the completion and communication of evaluations and results.

Communication and information sharing with DOC when court actions/releases occur.

Responsibility for arranging release transportation for 980 court releases that are returned to the facility.

### III. **CHAPTER 980**-PACKET TO DEPARTMENT OF JUSTICE (DOJ)

#### A. Purpose

The purpose of this referral packet is to provide sufficient and timely information and recommendations for the Department of Justice (DOJ) and/or local prosecution to determine the legal viability of pursuing a petition for Chapter 980 commitment. Clinical information, reports and recommendations contained in this packet is to be provided by properly privileged and credentialed evaluation staff as designated by each institute.

#### B. Contents

The packet should contain:

1. A clinical 980 evaluation summary and report including an opinion as to whether or not the patient meets criteria for 980 commitment.
2. The DCTF #1568 Computation Sheet which verifies the patient is within 90 days of their scheduled release or discharge date.
3. The DCTF #1568 Computation Sheet must include the following statement and be signed and dated by the person responsible for the accuracy of computation:

“I have done/reviewed the above calculation and certify it’s accuracy.”

#### C. Routing/Distribution and Approvals

Packets should be forwarded for review in the following sequence:

1. Institute Director
2. DCTF Administrator
3. Office of Legal Counsel
4. Department of Justice

### IV. **CHAPTER 980 POST-PROBABLE CAUSE EVALUATIONS**

#### Purpose

The Department performed evaluations are limited to the purpose of determining whether or not in the DCTF evaluators opinion, the detainees meets criteria in Chapter 980 for designation/commitment as a Sexually Violent Person. Department 980 post probable cause evaluation report content is limited to format, informational items, instructions and analysis prescribed by the MMHI special evaluation unit. Post-probable cause evaluations are not to recommend specific placement, disposition, provide information about or develop community or institution-based programming, resources or service plans.

**C. Orders to Provide an Evaluation**

These evaluations are ordered by and provided as a service to the court. Evaluators are expected to complete formal written reports prior to the trial date. When completed, the evaluation report is forwarded to the court with copies sent directly to the defense and prosecuting attorneys, Office of Sex Offender Programs, and the Department of Justice.

**D. Pre-Trial Discussion of Evaluation Results/Opinions**

On occasion defense or prosecuting attorneys may contact the evaluator directly for a preliminary analysis and opinion, prior to the completion or production of the evaluation report to the court. Evaluators are advised not to provide verbal preliminary information or opinions. Any and all preliminary information must be shared with all parties to the proceedings or these discussions may constitute exparte communication and could jeopardize further trial proceedings.

The best practice is to refrain from preliminary discussions or reports, and proceed with the completion of a formal written evaluation for the court. If preliminary impressions are given it should be in written form with copies to the defense and prosecuting attorneys, the facility, Supervised Release Program Specialist and Department of Corrections Office of Sex Offender Programs.

**E. Evaluation Assignments Prior to Implementation of the MMHI Evaluation Unit**

Since 6/24/95 MMHI has had a unit of specialized evaluators designated to perform SVP evaluations. Evaluations assigned prior to that date are expected to be done by the previously assigned evaluator just prior to the scheduled court date. Any reassignment of these evaluations to another evaluator must be reported to MMHI admissions office and special evaluations unit.

**F. Informal Opinions Regarding Supervised Release**

Periodically, prosecuting attorney or defense attorney have requested preliminary information as to whether a particular individual may be appropriate for supervised release. The initial contact is to be the Supervised Release Specialist who will work with the Resource Center staff to facilitate a written response. Opinions in this regard are NOT to be provided by the DHFS evaluators.

**V. COURT ACTIONS RESULTING IN RELEASE/DISMISSING CHAPTER 980 DETAINEES AND PROCEEDINGS**

## **A. District Attorney/Court Responsibilities**

District Attorneys/courts will return individuals to the institution so that:

1. a community release plan can be developed,
2. to collect their personal belongings and,
3. to ensure proper processing of paperwork for release.

## **B. Institution Staff Responsibilities**

Upon receipt of the court order or information indicating release, dismissal, or supervised release the institution will:

1. For an individual who remains under Community Supervision;
  - a. Notify the DCC agent of record of the action so that they may begin developing the community release plan.
  - b. Notify the Supervised Release Program Specialist of the court action so they may notify DOC Office of Sex Offender Programs and DOC Victim Notification Officer, Betty Thompson.
  - c. Ensure that any DCTF responsibilities regarding sex offender registration/notification have been completed and taken.
2. For individuals released without Community Supervision;
  - a. Notify the Supervised Release Program Specialist to discuss the court order and provide basic information regarding the plan for release. Supervised Release Program Specialist will notify DOC Office of Sex Offender Programs.
  - b. For individuals who were referred for 980 proceedings by DCTF,
    1. Notify local law enforcement in the county/municipality where individual will reside of their name, DOB, race, date of release and city/town of residence.

## **C. Guidelines/Procedures regarding Timeframes for Release**

1. Release from the institution should occur:

- a. Upon receipt of a certified copy of the court order, and within 24 hours of receipt of the order excluding Saturday, Sunday and legal holidays OR,
  - b. As indicated in the court order language when detention is ordered pending development of a release plan, OR
  - c. Upon DOC request to delay release pending arrangement of a stipulation agreement.
2. Upon DOC request for delay of release:
- a. Notify the Supervised Release Program Specialist of the request along with a faxed copy of the certified court order.
  - b. The Supervised Release Program Specialist will work with OLC to effect arrangements for a stipulated agreement for continued detention and keep DOC notified of this action.

## VI. TRANSPORTATION OF RELEASED/DISMISSED 980 DETAINEES AND COMMITMENTS

### A. Individuals Released To DOC Supervision

#### 1. Institution Responsibilities

- a. Once release plans are established, notify the DCC agent to arrange DOC transportation and escort.
- b. Notify Supervised Release Program Specialist (WRC) of cases where DOC staff escort/transport is refused who will take issue to the Supervised Release Program Manager for resolution.

#### 2. DOC Responsibilities:

- a. Provide DOC staff escorted transportation or make other escorted arrangements.

#### 3. Supervised Released Program Supervisor (Deputy Director, WRC) Responsibilities

- a. Serve as liaison to DOC to resolve escort/transport problems.

### B. Individuals Released without Community Supervision

#### 1. Institution Responsibilities

- a. Arrange escorted release transport with a family member, friend, or, if no other alternatives are available by institute staff.

cc: Bill Grosshans - DOC  
Tony Streveler - DOC

## **Sample Memorandum to Regional AA**

### **DEPARTMENT OF HEALTH AND FAMILY SERVICES DIVISION OF CARE AND TREATMENT FACILITIES (MMHI/MMHI)**

#### **MEMORANDUM**

To: (DSL Regional AA)

From: (MMHI/MMHI Social Worker)

Date: Today's Date

Re: Conditional Release Planning for John Doe, MMHI/MMHI Patient

John Doe, a patient at (MMHI/MMHI), has been granted a conditional release on (date) pursuant to sec. (cite appropriate section of **971.17**).

By law, (MMHI/MMHI) and (name of county) county are required to present a conditional release plan within sixty days from the date of the release decision.

Please contact me at (appropriate institute phone number) if you have any questions.

cc: Forensic Services Specialist, DCTF-AO  
Contracted Conditional Release Team

## **Sample Memorandum to Regional Licensing Chief**

### **DEPARTMENT OF HEALTH AND FAMILY SERVICES DIVISION OF CARE AND TREATMENT FACILITIES (MMHI/MMHI)**

#### **MEMORANDUM**

To: (DSL Regional Licensing Chief)

From: (MMHI/MMHI Social Worker)

Date: Today's Date

Re: Conditional Release Planning for John Doe, MMHI/MMHI Patient

John Doe, a patient at (MMHI/MMHI), has been granted a conditional release on (date) pursuant to sec. (cite appropriate section of **971.17**).

By law, (MMHI/MMHI) and (name of county) county are required to present a conditional release plan within sixty days from the date of the release decision.

We are presently in contact with the following CBRF's about the possibility of placement:

1. (Name and address of facility)
2. (Name and address of facility)

Please contact me at (appropriate institute phone number) if you have any questions.

cc: Forensic Services Specialist, DCTF-AO  
Contracted Conditional Release Team

**Conditional Release Regional Provider Directory**  
**Revised 10-30-2000**  
**Primary Contacts**

**1. DANE COUNTY**

**COMMUNITY TREATMENT ALTERNATIVES (CTA)**

**Mental Health Center of Dane County**

Dave Delap [dave.delap@mail.mhcdc.org](mailto:dave.delap@mail.mhcdc.org)

Mary Mikalson [mary.mikalson@mail.mhcdc.org](mailto:mary.mikalson@mail.mhcdc.org)

124 West Mifflin Street

Madison, WI 53703

608-255-7586

Fax 608-255-7036

**2. FOX VALLEY REGION**

Kewaunee, Outagamie, Fond du Lac, Winnebago, Portage, Calumet, Manitowoc &  
Waupaca

**ADULT CARE CONSULTANTS INC.**

Kay Edlebeck [adultcare@gglbbs.com](mailto:adultcare@gglbbs.com)

E3440 Apple Tree Lane

Waupaca, WI 54981

Office: 715-258-7208

Fax: 715-258-7245

Donna Lambert, Ext. 17

Same address, etc. as Mary Madden

Mary Madden, Co-Owner (with Bev Gudex) [adultcare@gglbbs.com](mailto:adultcare@gglbbs.com)

68 East 9<sup>th</sup> Street

Fond du Lac, WI 54935

Office: 920-921-7723 Ext. 14

**Fax: 920-921-7986**

**3. NORTHERN REGION**

Ashland, Barron, Bayfield, Brown, Burnett, Chippewa, Clark, Douglas, Door, Dunn, Florence,  
Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Polk, Price,  
Rusk, St. Croix, Sawyer, Shawano, Taylor, Vilas, Washburn, & Wood

**LUTHERAN SOCIAL SERVICES OF WISCONSIN & UPPER MICHIGAN, INC.**

Jason Cram [JCRAM@LSSWIS.ORG](mailto:JCRAM@LSSWIS.ORG) ; Cell 715-571-8486

Sherrie Cox [SCOX@LSSWIS.ORG](mailto:SCOX@LSSWIS.ORG) ; Cell 920-366-3337

627 Jackson Street

Wausau, WI 54403

715-842-3181

FAX 715-842-9245



Janice Weis [JWEIS@LSSWIS.ORG](mailto:JWEIS@LSSWIS.ORG)  
702 Morley Road, PO Box 12324  
Green Bay, WI 54307-2324  
920-405-5350, Ext. 29  
FAX 920-405-5350  
Cell 920-366-3337

Amy Giani [AGIANI@LSSWIS.ORG](mailto:AGIANI@LSSWIS.ORG)  
1101 West Clairemont Avenue, Suite H  
Eau Claire, WI 54701  
715-833-0992, Ext 208  
FAX 715-833-9466  
Cell 715-828-6346

#### **4. MILWAUKEE COUNTY**

##### **Wisconsin Correctional Services (WCS)**

Safety Building, Room 417  
821 West State Street  
Milwaukee, WI 53233

Lori Akstulewicz-	<a href="mailto:Loria@wiscs.org">Loria@wiscs.org</a>	414-223-1311
Sara Kobussen-	<a href="mailto:@wiscs.org">@wiscs.org</a>	414-223-1321
Claudine Doornek-	<a href="mailto:@wiscs.org">@wiscs.org</a>	414-223-1303
Chris Marshall-	<a href="mailto:CMcxm@wiscs.org">CMcxm@wiscs.org</a>	414-223-1320
Wendy Douglas-	<a href="mailto:@wiscs.org">@wiscs.org</a>	414-223-1322

#### **5. SOUTHEASTERN REGION**

Adams, Columbia, Dodge, Green Lake, Jefferson, Kenosha, Marquette, Ozaukee, Racine,  
Sheboygan, Walworth, Waushara, Washington, & Waukesha

##### **Wisconsin Correctional Services (WCS)**

Peter Mihojevich [pmihojevich@wiscs.org](mailto:pmihojevich@wiscs.org) 414-223-1373; FAX 414-223-1333  
Safety Building, Room 417  
821 West State Street  
Milwaukee, WI 53233

Bruce Kurtz [bkurtz@wiscs.org](mailto:bkurtz@wiscs.org)  
Same address, etc. as Pete Mihojevich

## **6. WESTERN REGION**

Buffalo, Crawford, Eau Claire, Grant, Green, Iowa, Jackson, Juneau, La Crosse, Lafayette,  
Monroe, Pepin, Pierce, Richland, Rock, Sauk, Trempealeau, & Vernon

LUTHERAN SOCIAL SERVICES OF WISCONSIN & UPPER MICHIGAN, INC.

Jason Cram [JCram@LSSWis.org](mailto:JCram@LSSWis.org) ; Cell 715-571-8486

627 Jackson Street

Wausau, WI 54403

715-842-3181

FAX 715-842-9245

Tera Wirth

[TWirth@LSSWis.org](mailto:TWirth@LSSWis.org)

2350 South Avenue, Suite 213

La Crosse, WI 54601

608-788-5071

FAX 608-788-6623

Kathleen Johnson

[KJohnson@LSSWis.org](mailto:KJohnson@LSSWis.org)

33 South Main Street, Suite 141

Janesville, WI 53545

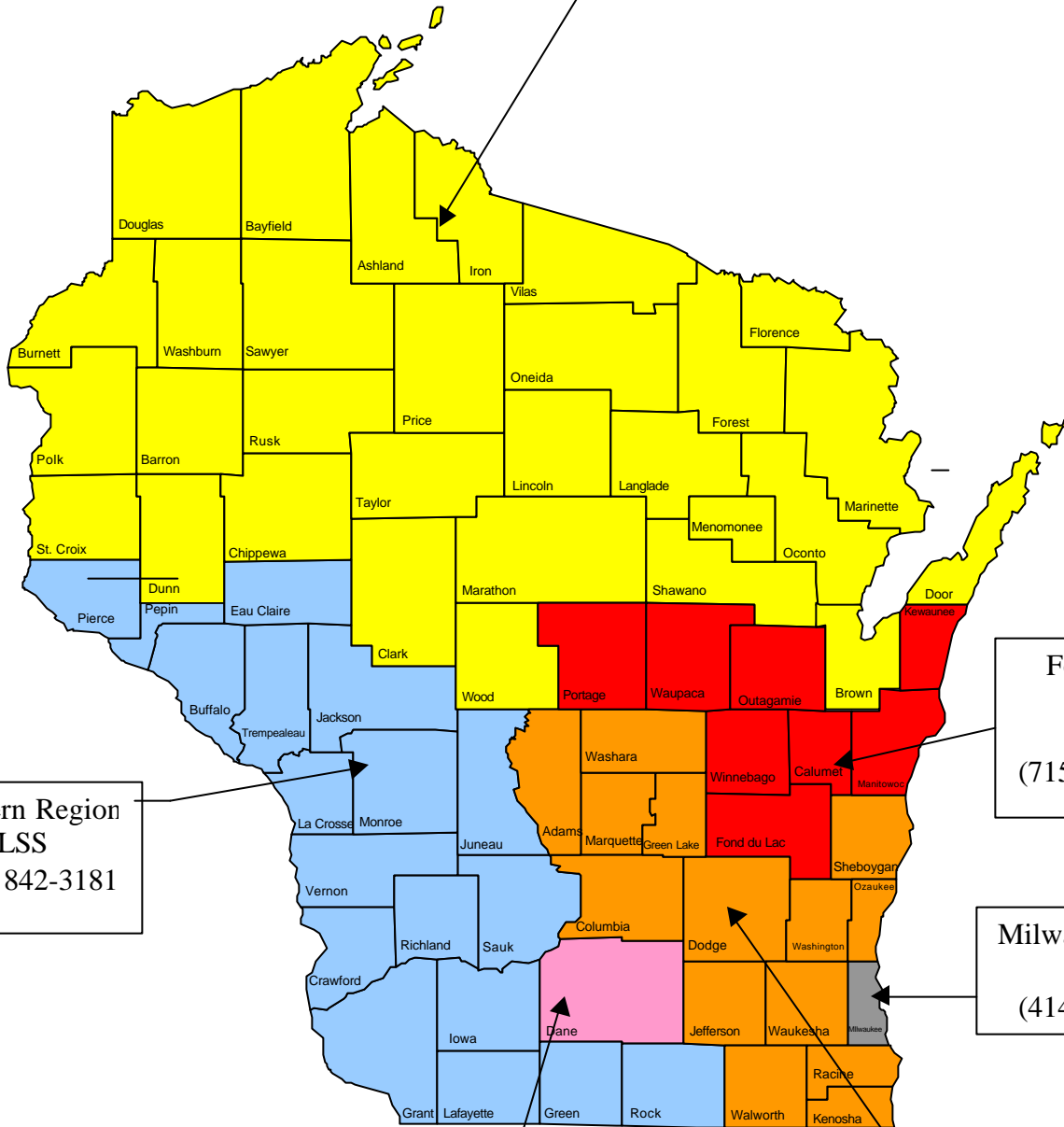
608-758-9820

FAX 608-7589821

**DHFS Consultants:**

- Glenn Larson – (608)266-2862
  - Dane, Milwaukee, & Western Regions.
- Lynne Adolphson – (608)267-7705
  - Northern, Fox, & Southeastern Regions

Northern Region  
LSS  
(715) 842-3181



Fox Valley  
Region  
ACC  
(715) 258-7208

Western Region  
LSS  
(715) 842-3181

Milwaukee County  
WCS  
(414) 223-1311

Southeastern  
Region  
WCS  
(414) 223-1373

Dane County  
Dane County  
Human Services  
(608) 255-7586

Rev 9-20-00

Tommy G. Thompson  
Governor

Joe Leean  
Secretary

**State of Wisconsin**

**Department of Health and Family Services**

**ADMINISTRATIVE DIRECTIVE**

**AD-02-2000**

(This replaces AD-09-97)

DATE: June 12, 2000

TO: DCTF Institution Directors  
DCTF Central Office Staff

FROM: Laura Flood  
Interim Administrator

RE: **Hi-Profile Case and Incident Case Reporting**

The following are guidelines to be followed for reporting hi-profile situations, activities, and occurrences. The intent of these guidelines is to provide parameters and expectations for communication between DCTF Institutions and DCTF Central Office and other entities about DCTF situations that have a potential for public or media attention.

While it's not possible to describe every circumstance in which immediate notification should occur, in general events involving significant injury or death, media or public attention, other high profile incidents and facility emergencies should be reported.

**Guidelines:**

Hi-Profile is defined for these purposes to include situations where there may be:

- Serious threat(s) made by a patient/client (verbal, written, gestured, etc.) to a public figure, victim, staff, etc.
- A change in case plans or activities that could present a risk of elopement or re-offense, or meet with public or legal controversy
- Patient/client petitions court for release in cases where there has been public controversy or previous media exposure
- Serious accident, injury, death to staff or patient/resident/client/inmate
- Involvement of law enforcement or emergency fire/medical staff or transport
- Significant or newsworthy court or legal action
- A physical facility emergency or evacuation
- Any potential or actual media interest or attention

**Reporting Format:**

- ✓ Name
- ✓ Reason for reporting (why “hi-profile”)
- ✓ Committing charge or status, date, brief description of behavior leading to commitment (as appropriate depending on facility focus)
- ✓ Any background or progress data deemed appropriate

**Reporting Contact and Chain:**

1. For Chapter 980 or Forensic patients and case actions: Mary Green, Linda Harris and Alan Tripp
2. Attempted suicide, suicide, serious injury reporting: Laura Flood, Mike Hughes, Mary Green
3. Staff or facility related incidents: Laura Flood, Mike Hughes, Mary Green

Informing central office staff should be as quickly as possible upon recognition of the situation. The first person listed is the primary contact. If reporting is done by electronic mail, address it to the primary contact but please copy in the additional contacts.

Laura Flood                   (608) 267-7921 (w)  
                                     (608) 846-5899 (h)  
                                     (608) 275-2558 (pager)

Mike Hughes               (608) 267-2254 (w)  
                                     (608) 831-1416 (h)

Mary Green                (608) 267-7803 (w)  
                                     (608) 437-3908 (h)

Linda Harris               (608) 267-7909 (w)  
                                     (608) 831-7271 (h)

Alan Tripp                 (608) 266-5677 (w)  
                                     (608) 276-8702 (h)